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CHURCH LAW.

SUGGESTIONS

ON THE LAW

OF THE

PROTESTANT EPISCOPAL CHURCH

IN THE UNITED STATES OF AMERICA:

ITS SOURCES AND SCOPE.

BY

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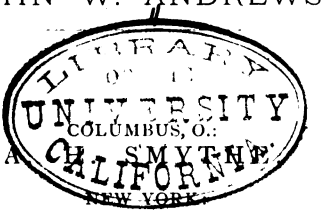

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PREFACE.

THIS book, as its title indicates, does not profess to be an exhaustive treatise upon the law of the Protestant Episcopal Church in the United States. It discusses simply the method of ascertaining such law, and some of its most important principles, with suggestions as to its origin, and the extent of its jurisdiction. The valuable work of Judge Hoffman, on the "Law of the Church," being out of print, and not within reach of the public generally, it has been deemed proper to quote in the Appendix such parts of it as bear directly upon the points under discussion, and especially in cases in which the author is constrained to differ from so eminent an authority. The reader will find also, principally in the Appendix, extracts from the works of Bishop Hopkins, Dr. Hawks, Dr. F. Vin-

ton, and others, with some original letters and documents, in whole or in part, that relate to topics treated of: so that he will have in his hands the means of correcting any errors into which the author may have fallen, and to come to his conclusions the better, after consulting these leading authorities.

J. W. A.

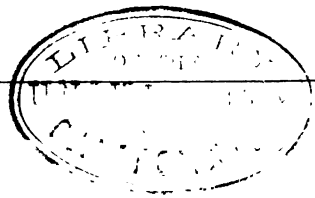
TABLE OF CONTENTS.

CHAPTER I.—(PAGES 1–48.)

CHAPTER II.—(PAGES 49–62.)

CHAPTER III.—(PAGES 63–72.)

APPENDIXES.—(PAGES 73–142.)



SUGGESTIONS ON

CHURCH LAW.

CHAPTER I.

THE American Revolution found the Church existing in all the colonies, but it was everywhere weak, and nowhere self-sustaining, unless in the cities of New York, Boston, and Philadelphia, and in the states of Maryland and Virginia, in which states it was established by law. The Book of Common Prayer, together with the offices and articles of the Church of England, were, from the first, in use in the colonial churches; and thus the essential principles of the doctrine, discipline, and worship of the Church of England, were adopted by them. Recognizing in accordance with primitive order, and the principles of discipline thus adopted, the need of Episcopal oversight and service, the colonial churches from an early day, and down to the time of the Revolution, availed themselves voluntarily of the Episcopal supervision of the bishops of London, which was kindly given at their earnest request; and the informal Episcopate thus established, was the principal, if not the sole bond of union among these colonial churches.

Relations of the Colonial Churches to the Church of England.

CHAP. I.

The legal status of these churches, excepting as modified in some of the colonies by civil enactments, was according to the decisions of the English courts, that of entire independence.

In the case of *Long vs. The Bishop of Capetown*, 1 Moore, N. S. 411, the language of the Court is as follows:

"The Church of England in the colonies which have an established Legislature, and no church established by law, is to be regarded in the light of a voluntary association, in the same situation with any other religious body, in no better, but in no worse position, and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body, which will be binding on those who expressly or by implication have assented to them. It may be further laid down that, when any religious or other lawful association has not only agreed on the terms of its union, but has also constituted a tribunal to determine whether the rules of the association have been violated by any of its members or not, and what shall be the consequence of such violation, the decision of such tribunal will be binding, when it has acted within the scope of its authority, has observed such forms as the rules require, if any forms be prescribed, and if not, has proceeded in a manner consonant with the principles of justice.

In such cases the tribunals so constituted are not in any sense courts; they derive no authority from the Crown; they have no power of their own to enforce their sentences; they must apply for that purpose to

the courts established by law; and such courts will give effect to their decisions, as they give effect to the decisions of arbitrators, whose jurisdiction rests entirely upon the agreement of the parties."

In re The Lord Bishop of Natal, 3 Moore N. S., page 152, the Court says:

"It cannot be said that any ecclesiastical tribunal or jurisdiction is required in any colony or settlement where there is no established Church; and in the case of a settled colony the Ecclesiastical Law of England cannot, for the same reason, be treated as part of the law which the settlers carried with them from the mother country."

If these decisions of the Privy Council be recognized as sound law, English Ecclesiastical Law could have been of no force in a colonial Church in this country, until adopted by it, and such adoption could only be by express enactment, or by general usage for so long a period of time as to ripen into law.

See also, *Bishop of Natal vs. Gladstone*, L. R., 3 Equity Cases, before the Master of the Rolls, page 1, *Merriman vs. Williams* L. R. 7 Appeal Cases, 509. Sir R. Phillemore's *Ecclesiastical Law*, page 2244.

The fair construction of the authorities, both English and American, shows that the essential points of the doctrine, discipline, and worship, that is, the essential principles of the constitution of the Church of England, those that are not local, limited to this or that country, but universal wherever the Church of England exists, those which the colonial churches in this country brought with them with the Book of

Common Prayer, and from which the Church in this country has never departed, are binding upon the members of the Church of England in a colony, on the ground of their having assented to and adopted them, by becoming a branch of such Church.

But so far as ecclesiastical law is concerned, as to which different localities may differ consistently with true loyalty to these essential principles, the members of the Church of England in a colony that has an established legislature and no established Church are, according to the English authorities, placed on the footing of voluntary religious societies, and may adopt their own rules precisely as may the members of any other religious body; and any tribunal of such colonial church, in the exercise of its authority, must proceed in accordance with such rules, or if no such rules have been adopted, then in a manner consonant with the principles of justice; and the civil courts will carry into effect the decisions of a tribunal so proceeding, if they shall be found to be consistent with the essential principles of the constitution of the Church.

The colonial churches having brought with them and voluntarily adopted the essential principles of the doctrine, discipline, and worship of the Church of England, and thus preserved their continuity with that church and through it, with the Primitive Church, established from time to time such rules and usages as, in their judgment, were, in their circumstances, best suited for properly maintaining such doctrine, discipline, and worship. In establishing such rules, it has generally been sup-

posed in this country, and such undoubtedly has been the current of American authority, although not fully acquiesced in, that the colonial churches respectively had the right, in analogy, to the principle of law universally recognized by the civil departments of the colonial governments and their courts of justice, to avail themselves of any of the laws of the English Church, that they should, from experience, find to be suited to their needs, and should choose, therefore, to adopt; but they do not seem to have availed themselves, to any considerable extent, of this privilege. In adopting the English Book of Common Prayer, with the articles of faith and offices, rites, and ceremonies connected therewith, its definitions and terminology, they recognized the principle of a common liturgical public worship, the three orders of the ministry, with their inherent spiritual prerogatives and relationships, and the essential principles, forms, and usages which together constitute the peculiar discipline of the Church of England, and are elements of continuity with the Primitive Church. The precise significance of the word "discipline" will be considered hereafter, when it will be seen that a difference of opinion, touching its meaning, has led to widely different conclusions as to the sources and scope of our ecclesiastical law.

Their rights as to English Law.

What was adopted by them.

Such was the condition of the colonial churches at the date of the Declaration of Independence. They were in full accord with the Church of England, in all essential points of doctrine, discipline, and worship, and thus, while entirely independent of her, were substantially identified with her.

CHAP. I.

Effect of American Revolution.

The Revolution came, and with it national independence, and this change in political relations involved the necessity of changes in the Prayer Book, while the supervision and services of the bishops of London were no longer admissible: but in all other respects the colonial churches maintained their identity, having the same congregations and ministers, the same church edifices and property,* the same doctrine, discipline and worship, rites and ceremonies, after the Revolution, as before. The need of bishops was, of course, at once felt, as all Episcopal supervision of the colonial churches was at an end, and such supervision was then, as it is now, deemed essential to the well-being of a church. Thereupon, the diocese of Connecticut elected the Rev. Samuel Seabury as their bishop, who was consecrated as such in Scotland, in 1784, and in like manner the Rev. William White, and Rev. Samuel Provoost, were elected bishops of the dioceses of Pennsylvania and New York, respectively, and consecrated as such, in England, in 1787.

Election of Bishops.

It will be observed that these bishops were elected and consecrated before the adoption of the constitution of the Protestant Episcopal Church in the United States, but each colonial church being independent of all foreign control, political or otherwise, and having made its own by adoption, the doctrine, discipline, and worship of the mother church, had ample powers for completing and perfecting its organization, and these bishops, when so elected and consecrated, were

*See Terrett vs. Taylor, 9 Cranch 43.

clothed with those powers and prerogatives that pertain to and are inherent in the high office of Bishop in the Church of God. The discipline of the Church of England, adopted by the colonial churches, amply justified these proceedings, and indicated with sufficient distinctness, the powers and duties of the new bishops, until they should be prescribed and regulated by such appropriate legislation as the colonial churches respectively, or united as a national Church, should adopt.

Unity with Primitive Church not affected.

The unity of these churches with the Church of England, and the Primitive Church, thus survived the Revolution intact, and those spiritual elements of its constitution and government which have their sources in no human legislation, and with which such legislation has no right to intermeddle any further than to regulate their exercise, were found, as they must always be found, adequate to all emergencies. Constitutions and canons that are framed for the purpose of maintaining this unity, whether by means of a national union of dioceses, or in such dioceses separately, rest upon a wholly different basis, and may and do differ radically from each other, and undergo material changes from age to age, without impairing this unity with the Universal Church.

In reference to this point, Dr. Hawkes, in his Ecclesiastical Contributions, page 3, says:

"The union of the churches, in any country, "must be the act of man, for man must make the "regulations by which different Christian churches "consent to adopt one system of government or polity. "The other, unity, depends on an adherence to what

"God has declared to be his truth, and no political "convulsions can alter that truth, or release man from "his obligations to obey it; and thus the Revolution not "only could not, by any necessary consequence, de- "stroy the unity existing among the churches, in the "several colonies on this continent; but it did not dis- "turb it as between them and the church of the mother "country, from which, politically, they were just sev- "ered. The Church of England and the Protestant "Episcopal Church in the United States, are now "both in the unity of the Catholic Church, "though under different systems of polity."

The rule of law referred to as recognized by the civil authorities and courts of the colonies from their earliest settlement, as well as by those of most of the states of the Union, in reference to English law and its precise relations to these colonies and states, is thus stated by Justice Story, in 1 Story on the Constitution, 4th Ed. Sec. 157:

How far English law in force.

"Ever since the settlement of the colonies, the "universal principle has been, that the Common Law "is our birthright and inheritance, and that our ances- "tors brought hither with them, upon their emigra- "tion, all of it which was applicable to their situation. "The whole structure of our present jurisprudence "stands upon the original foundation of the Common "Law."

In the case of *Van Ness vs. Packard*, 2 Peters, 137–144, the same Justice, in giving the opinion of the Supreme Court, says:

Common law.

"The Common Law of England is not to be "taken, in all respects, to be that of America. Our

"ancestors brought with them its general principles, "and claimed it as their birthright; but they brought "with them and *adopted* only that portion which was "applicable to their situation."

Chancellor Kent says: 1 Kent's Commentaries 473, note b.:

"The Congress of 1774 claimed to be entitled to "the benefit not only of the Common Law of England "but of such of the English statutes as existed at the "time of their colonization, and which they had, by "experience, respectively found to be applicable "to their several local and other circumstances— "(Journals of Congress, October 14, 1774). This was "only declaratory of the principle in the English Law, "that English subjects going to a new and uninhabited "country, carry with them, as their birthright, the "laws of England existing when the colonization "takes place."

In *Wheaton vs. Peters*, 8 Peters 591, Justice McLean says:

"It is insisted that our ancestors, when they "migrated to this country, brought with them the "English Common Law, as a part of their heritage. "That this was the case, to a limited extent, is admit- "ted. No one will contend, that the Common Law, "as it existed in England, has ever been in force in "all its provisions, in any state in this Union. It "was adopted so far only as its principles were suited "to the condition of the colonies."

In the case of the *United States vs. Worrall*, 2 Dallas 384, Chase, J., after deciding that, in his opinion, the United States has no Common Law, says:

CHAP. I.

Not in force until adopted.

"If indeed the United States can be supposed, "for a moment, to have a Common Law, it must, I "presume, be that of England, and yet it is impos- "sible to trace when and how the system was "adopted or introduced. With respect to the indi- "vidual states, the difficulty does not occur. When "the American colonies were first settled by our an- "cestors, it was held, as well by the settlers as the "judges and lawyers of England, that they brought "hither, as a birthright and inheritance so much of "the Common Law, as was applicable to their situ- "ation and circumstances. *But each colony judged "for itself what parts of the Common Law were appli- "cable to its new condition*, and in various modes, by "legislative acts, by judicial decisions, or by con- "stant usage, adopted some parts and rejected others. "Hence, he who shall travel through the different "states will soon discover that the whole of the "Common Law of England has been nowhere intro- "duced; that some states have rejected what others "have adopted, and that there is, in short, a great "and essential diversity in the subjects to which the "Common Law is applied, as well as in the extent "of its application. The Common Law, therefore, of "one state, is not the Common Law of another; but "the Common Law of England is the law of each "state, so far as each state has adopted it."

If this rule of courts of justice and civil administration is, by analogy, applicable to ecclesiastical law, the colonial churches, had, undoubtedly, the right to appropriate to their own uses the laws of the English Church, so far as they should,

from experience, find that they needed them, and should adopt them, or in other words, so far as, in their judgment, they were applicable to their circumstances; and of such applicability they were exclusively the judges.

Foreign law not in force until adopted.

In addition to the argument drawn by analogy from the decisions of the courts and civil authorities, the history of the ecclesiastical law of England fully sustains the same position as to the absolute independence of the colonial churches, of all foreign law; that is, of all human law which they had not affirmatively enacted or adopted. By the Act of Parliament of 25th Henry VIII., Chapter 21, it is enacted as follows:

Authorities.

"The realm of England hath been and is free "from subjection to any man's laws, but only such "as have been devised, made, and obtained within "this realm, for the wealth of the same, or to such "other as, by sufferance of the king, the people of "this realm have taken by their own consent to be "used among them, and have bound themselves by "long use and custom to the observance of the "same, not as to the observance of any foreign "prince, potentate, or prelate, but as to the accus-"tomed and ancient laws of this realm, originally "established as laws of the same, by the said suffer-"ance, consent, and custom, and none otherwise."

The principle of this noble declaratory statute was, in all respects, as applicable to the colonial churches as to the Church of England, and it is equally applicable to the Protestant Episcopal Church in the United States.

In reference to this point, Chief Justice Hale, as cited by Lord Hardwicke, 2 Atkyns, 669, says:

"I conceive that when Christianity was first introduced into this land, it came not without some form "of external ecclesiastical discipline or coercion, "though at first it entered into the world without "it; but that external discipline could not bind any "man to submit to it, but either by force of the "supreme civil power, where the governors received "it, or by the voluntary submission of the particular persons that did receive it; if the former, then "it was the civil power of the kingdom which gave "that form of ecclesiastical discipline its life; if the "latter, it was but a voluntary pact or submission "which could not give it power longer than the party "submitting, pleased; and these the king allowed, "connived at and did not prohibit; and thus, by "degrees, introduced a custom whereby it became "equal to other customs and usages."

In *Cowdry's Case*, 5 Coke's Rep., 33, Lord Coke says:

"So, albeit the kings of England derived their "ecclesiastical laws from others, yet so many as were "proved, approved, and allowed herein, and with a "general consent, are aptly and rightly called the "king's ecclesiastical laws of England."

In *Evans vs. Askwith*, Wm. Jones' Rep., 160, it was declared, that "no foreign canons bind here, except such as have been received, but, being received, they become part of our laws." See *Queen vs. Mills*, 10 Clarke & Finnelly, 678; Hoffman's Law of the Church, p. 46.

The declaration of fundamental rights issued by the first convention of the Church of Maryland, asserts the same independence of all foreign authority, as the undoubted right of the Church of Maryland, in these striking words:

"We consider it as the undoubted right of the "Protestant Episcopal Church, in common with other "Christian churches, under the American Revo- "lution, to complete and preserve herself as an "entire church, agreeable to her ancient usages and "professions, and to have the full enjoyment and free "exercise of those purely spiritual powers which are "essential to the being of every church or congre- "gation, and which, being derived only from Christ "and his Apostles, are to be maintained independent "of every foreign or other jurisdiction, so far as may "be consistent with the civil rights of society."

If no papal canon or decretal was ever binding on the English Church or people, but by their own consent, even during the darkest period of papal supremacy, it can hardly be claimed that this same English Church and people could arbitrarily impose their laws upon independent colonial churches.

Dr. Francis Vinton, in his Manual on Canon Law, p. 20, thus expresses himself on this point:

"Both churches (that is, the Church of England "and ours) are amenable to the body of canon law, "when it is not superseded by domestic law. As "the ante-Reformation or Foreign Law, imposed "by Rome is to the English Church, so is the "English Canon Law to the Church in the United "States. In other words, the Catholic Code is ab-

CHAP. I.

"solutely obligatory, where no rule is provided. "The foreign code of laws, *e. g.*, the English Ec- "clesiastical Laws in the United States, is obligatory "with two restraints: (1.) that they are adapted to "the Constitution of this Church, and so are proper; "(2.) and not contradicted by the laws of the land "and of this Church, and so are legal rules. 25 "Henry VIII., Chapter 21, Gibson's Codex, Introd. "Dis., pp. 27, 28." He then adds:

"Question: Is every member of the Church "bound to obey the canons of the Catholic Code "and of the English Church, with the restraints "above named?"

"Answer: Yes; on the footing of consent, usage, "and custom in this Church, or *jus non scriptum* "*ecclesiasticum*. Gibson's Codex. Introd. Dis., 28. "Grey's Eccl. Law, pp. 9, 10."

Dr. Vinton thus admits that English ecclesiastical law is, so far as we are concerned, *foreign law*, and that its relation to the Church in this country is precisely the same as that of the ante-Reformation law imposed by Rome to the English Church, and is only obligatory, on "the footing of consent, usage, and custom, in this Church."

In order, therefore, to ascertain precisely what laws of the English Church were binding upon a colonial church, at the time of the Revolution, we have only to ascertain which of them had been adopted by such church, by "consent, usage, or custom."

The Protestant Episcopal Church in the United States of America, however, it must be carefully observed, was not organized until the year 1789, and, of

course, the relations of these foreign laws to it, could not depend upon its usage and custom, but any binding obligation that they may have upon this Church must rest upon wholly different grounds, and will be considered hereafter.

To the same effect Dr. Hawkes, in his Ecclesiastical Contributions, p. 265, says:

"The opinions which were entertained in the "mother country, and the decisions which had been "made on matters of ecclesiastical law or usage, up to "the severance of these colonies by the Revolution, "were, as far as applicable, held to be the guide of the "Church of England here, and, although the inde-"pendence of the United States dissolved the con-"nection, it evidently did not destroy the prevailing "opinions among churchmen, as to matters and usages "touching the Church. To the Common and Canon "Law of England we must therefore look, if we "would fully understand the origin of much of the law "of our own church."

So, also, Bishop Hopkins, in his very valuable work, "The Primitive Church Compared," etc., pp. 358, 359, after quoting some passages of the consecration service of bishops, says:

"All the above passages are retained from the "ordinal of the Church of England; they were a part "of the ecclesiastical system of our church, previous "to the Revolution; the colonies were, at that time, "under the spiritual jurisdiction of the Bishop of Lon-"don, and whatever construction was then put upon "the office of a bishop, and the promise of obedience "to him, in this country, continues to be the law of

"our church to this day; those points alone excepted, "in which our American church has thought fit to "alter it by some new provision.

"This is the well-known principle of our civil law. "Hence, in almost every part of the Union, there are "parts of the English Common and statute law in "force to the present hour; all that had been received "and acted upon in this country previous to the Revo- "lution, being considered as a part of our system, in no "way affected by the separation from the mother coun- "try. (See the case of *Terrett et. al. vs. Taylor et. al.* "9 Cranch, 43.) And in all the Federal courts, the "whole science of jurisprudence is still interpreted ac- "cording to the English rule, and their law books are "read as authority.

"Marvelous it is, surely, that the laws of the states "should keep their ancient connection with so much "constancy; while yet the principles of the Church "must be cut loose from all their ties, and be sent "adrift to discover new interpretations and definitions "of old terms, as if the phrases bishop, presbyter, "and ordination vows, had suddenly lost all meaning "and ceased to signify, at the Revolution, what they "had always signified before."

On page 361, *Idem.*, Bishop Hopkins says:

"The bishops of London were our diocesans; "and the uninterrupted, although voluntary, submis- "sion of our congregations, will remain a perpetual "proof of their mild and paternal government."

Bishop Hopkins was an able lawyer, as well as a wise bishop; and these quotations attest the accu- racy and thoroughness of his legal knowledge and

conclusions, as to the relations which the colonial churches, after the Revolution, sustained to the discipline of the Church of England, and its ecclesiastical law. He evidently considered no foreign law as binding here, until by usage and consent, or as he expresses it, by having "been received and acted upon," it had become American law and was thus in no way affected by the separation from the mother country. It was the right of a colony, or of a colonial church, to avail itself of any English law that it should deem applicable to its situation; but there was no obligation upon it to do so; and much confusion in the discussion of this question as to the precise scope and force of English law in this country has arisen from the fact that this distinction between the right and obligation to use it has been frequently overlooked, as has also the further fact that, as the Protestant Episcopal Church in the United States was not organized until October, 1789, the Revolution and the changes resulting from it, could have had no immediate effect upon such Church, but only upon the colonial churches, whose legal status must therefore be considered separately from that of the National Church.

Judge Hoffman, in his able work upon the Law of the Church, under the heading "Of the Church of England in the Colonies," among other things, says:

"It is an admitted maxim that the great body of "the Common Law of England, and of its statute "law, so far as adapted to the situation of the colo-"nies, was brought to this land from the mother "country, and formed the basis of colonial law.

CHAP. I.

"Now this great principle, which pervaded every "colony founded by Englishmen, prevailed, in a par- "ticular sphere, wherever a church upon the basis of "that of England was established. They who be- "longed to such a Church were members of that of "England, at the time of their arrival, or voluntarily "joined it here. The former brought with them, "the latter adopted, the doctrine and discipline, the "rules and order of the English Church. Unde- "niable as this proposition seems to be, yet it is nec- "essary, by a fuller statement, to guard it from mis- "take. The proposition is not, that the Church as "an establishment, with the statutes of supremacy "and uniformity, formed part of the law of the colo- "nies, where charters did not otherwise provide; but "the proposition is, that all members of the Church "of England in the colonies were subject to the "ecclesiastical law of England, except where it was "expressly altered or necessarily inapplicable."

Under this language of Judge Hoffman, submission to English law would seem to be, not a matter of consent and usage, and thereby of adoption as American law, but a matter of compulsion, except where, from necessity, it was inapplicable, or had been expressly altered. If this be his meaning, there can be no doubt that this proposition of Judge Hoffman reverses the rule hereinbefore stated, and declares that English law, whether accepted and adopted by the colonial churches or not was, as a general rule, binding upon them. A careful consideration will hereafter be given to his language and the positions which he assumes in reference to the

scope and force of English law in this country, when we come to deal specially with the law governing the Protestant Episcopal Church in the United States.

It may then be assumed as settled by the whole current of authority that, in the colonies and colonial churches, as in England and the Church of England, neither the Common nor any foreign law was ever in force, until adopted by their own consent. In civil affairs, the needs of a colony would lead at once to the adoption of the Common Law upon a large scale, inasmuch as the rights of property and person demanded immediate protection, and the Common Law, with its vast treasures of wisdom and learning, and with which they were familiar, and to which they were deeply attached, was adequate and at hand for such protection.

Chancellor Kent says: "Although the great body "of the Common Law consists of a collection of "principles, to be found in the opinions of sages, "or deduced from universal or immemorial usage, "and receiving progressively the sanction of the "courts, it is nevertheless true, that the Common "Law, so far as applicable to our situation and gov-"ernment, has been recognized and adopted as an "entire system by the constitutions of New York, "Massachusetts, New Jersey, and Maryland. It has "been assumed by the courts of justice, or declared "by statute, with the like qualifications, as the law "of the land in every state. It was imported by "our colonial ancestors as far as it was applicable, "and was sanctioned by royal charters and colonial "statutes. It is also the established doctrine, that

CHAP. I.

"English statutes passed before the emigration of our "ancestors, applicable to our situation, and in amend- "ment of the law, constitute a part of the com- "mon law of this country."—1 Kent's Com., p. 472.

It was to meet the pressing needs of a growing civilization on this continent that the Common Law, that had gradually been developed out of just such needs in England for a thousand years, was adopted by these colonies and states as their undoubted legal right.

The colonial churches met their needs in precisely the same way, and adopted the Book of Common Prayer of the Church of England, with its offices, rites, and ceremonies, and made it, and the doctrine, discipline, and worship expressed or implied in it, their own, while in the interior arrangement of their Church edifices, with chancel, pulpit, and reading desk, and the use of the surplice, which was the clerical dress of the English parish clergy in public worship, they followed English law or usage; but beyond this they do not seem to have needed and therefore did not borrow anything from the laws or usages of the Church of England. Although they may have had the right to do so, they evidently considered the great mass of English canons and ecclesiastical law, inapplicable to their circumstances, and for that reason did not, either expressly or tacitly, adopt them.

According to the English decisions, therefore, English ecclesiastical law was in no sense in force in the colonies, and as such, could not be used. According to the American authorities, it *could* be used, but it was not in force, because it was not used.

Preliminary steps towards a Union as a National Church.

These colonial churches having, as the necessary consequence of the Revolution, lost the bond of union that was furnished them by the informal episcopate of the bishops of London, began, soon after the close of the Revolutionary war, to consider the expediency of forming a union as a national church, which should embrace all the dioceses, and have control of the spiritual interests that were common to them all, and be clothed with the powers necessary for that purpose, leaving, however, the control of all merely local interests to the respective congregations in the dioceses. The general drift of public sentiment in this direction will be seen from the proceedings of meetings for consultation held by the clergy and laity in different states during the year 1784, and subsequently, and which led gradually to the framing and adoption of the Constitution of the Protestant Episcopal Church in the United States of America, in the year 1789.

A convention of the clergy and laity of the diocese of Pennsylvania met in Christ Church, Philadelphia, on the 24th of May, 1784, which, as stated by Bishop White, was the first ecclesiastical assembly in any state consisting partly of lay members, and in which the first advances were made towards a general organization. The result of their deliberations was the establishing of the following principles, as a foundation for the formation in the future, of an ecclesiastical body for the Church at large.

"1st. That the Episcopal Church in these states "is, and ought to be independent of all foreign "authority, ecclesiastical or civil.

"2d. That it hath, and ought to have, in common "with all other religious bodies, full and exclusive "powers to regulate the concerns of its own com- "munion.

"3d. That the doctrines of the Gospel be main- "tained as now professed by the Church of England, "and uniformity of worship continued, as near as "may be, to the liturgy of the said Church.

"4th. That the succession of the ministry be "agreeable to the usage which requireth the three "orders of bishops, priests, and deacons; that the "rights and powers of the same, respectively, be as- "certained, and that they be exercised according to "reasonable laws, to be duly made.

"5th. That to make canons or laws, there be no "other authority than that of a representative body of "the clergy and laity conjointly.

"6th. That no powers be delegated to a general "ecclesiastical government, except such as cannot be "conveniently exercised by the clergy and laity, in "their respective congregations."

The proceedings which led to the meeting of this convention, as given by Bishop White and taken from the journal in his possession, will be found in his Memoirs of the Church, p. 93. A meeting of the clergy of Boston was also held on the 8th day of September, 1784, in which the following resolutions were adopted:

"1st. That the Episcopal Church in the United "States is, and ought to be, independent of all foreign "authority, ecclesiastical and civil. But it is the "opinion of this convention, that this independence

"be not construed or taken in so rigorous a sense, as to "exclude the churches in America, separately or col- "lectively, from applying for and obtaining from "some regular Episcopal foreign power, an Ameri- "can Episcopate.

"2d. That the Episcopal Church in these states "hath, and ought to have, in common with all other "religious societies, full and exclusive powers to "regulate the concerns of its own communion.

"3d. That the doctrines of the Gospel be main- "tained, as now professed by the Church of Eng- "land, and uniformity of worship be continued, as "near as may be, to the liturgy of the said church.

"4th. That the succession of the ministry be "agreeable to the usage which requireth the three "orders of bishops, priests, and deacons; that the "rights and powers of the same be respectively ascer- "tained, and that they be exercised according to rea- "sonable laws to be duly made.

"5th. That the power of making canons and "laws be vested solely in a representative body of the "clergy and laity conjointly, in which body the laity "ought not to exceed, or their votes be more in num- "ber than those of the clergy.

"6th. That no power be delegated to a general "ecclesiastical government, except such as cannot "conveniently be exercised by the clergy and ves- "tries in their respective congregations."

The resolutions adopted by the convention of May, 1784, held in Philadelphia, were probably drawn by Bishop White, as the calling of the convention was first suggested by him, and he was chair-

man of the clergy and committee that issued the call, and the leading man in the convention. The resolutions adopted at the meeting of the clergy in Boston were copied substantially from those of the Philadelphia convention. These resolutions are important, as showing the objects which the representative churchmen of that day had in view in the organization of a general national Church.

Under an arrangement made by the clergy of the cities of New York and Philadelphia, a meeting of several of the clergy from the dioceses of New York, Pennsylvania, and New Jersey, was held in New Brunswick, New Jersey, in May, 1784, being, as stated by Bishop White, the first communication between the clergy of different states. Little was done at this meeting, except to advise those present of the proceedings of the convention held in Philadelphia, to discuss the principles of an ecclesiastical union, and listen to suggestions in reference thereto. See Memoirs of the Church, p. 83.

Another informal meeting for consultation was held in the city of New York, in October, 1784, made up of clergy and laity from the dioceses of Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, when the following form of recommendation was adopted:

1st. "That there shall be a General Convention "of the Episcopal Church in the United States of "America.

2d. "That the Episcopal Church in each state "send delegates to the Convention, consisting of "clergy and laity.

3d. "That associated congregations in two or "more states, may send deputies jointly.

4th. "That the said Church shall maintain the "doctrines of the gospel, as now held by the Church "of England, and shall adhere to the liturgy of said "Church as far as shall be consistent with the Ameri- "can Revolution and the constitutions of the respect- "ive states.

5th. "That in every state where there shall be "a bishop duly consecrated and settled, he shall be "considered a member of the Convention, ex-officio.

6th. "That the clergy and laity assembled in "convention shall deliberate in one body, but shall "vote separately; and the concurrence of both shall "be necessary to give validity to every measure.

7th. "That the first meeting of the Convention "shall be at Philadelphia, the Tuesday before the "feast of St. Michael next, to which it is hoped and "earnestly desired that the Episcopal Churches in "the several states will send their clerical and lay "deputies, duly instructed and authorized to pro- "ceed on the necessary business herein proposed for "their deliberation."

The delegate from Connecticut, however, took no part in the proceedings further than to announce to the meeting that the clergy of Connecticut had taken measures for obtaining an Episcopate, and could do nothing until that should be accomplished; but that, as soon as they should have succeeded, they would come forward with their bishop for the doing of what the general interests of the Church might require.

CHAP. I.

Constitution framed.

As proposed by the meeting held in October, 1784, in the city of New York, a convention of clerical and lay deputies was held in the city of Philadelphia, on the 27th of September, 1785, from seven of the thirteen United States, to wit, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina. The proceedings of this Convention at its meetings in 1785 and 1786, and of the Convention of 1789, are given by Bishop White in his Memoirs, including the Constitution as recommended by the Convention of 1785, amended in 1786, and finally adopted with additional amendments in 1789. In reference to the work of these conventions Judge Hoffman says, (Law of the Church, p. 93):

"It was before stated that in September, 1785, "the delegates from seven States met at Philadel- "phia. On the first of October, 1785, the draft of "an Ecclesiastical Constitution was submitted to the "Convention by the Rev. Dr. Smith, of Maryland, "the chairman of a committee before appointed. It "was read by paragraphs and ordered to be trans- "scribed. Nothing further was done in that con- "vention. The second General Convention met "on the 20th of June, 1786. The Constitution "was taken up and debated. Several alterations "were made, and on the 23d of June it was unani- "mously adopted. The title and preamble are as "follows:

"A General Constitution of the Protestant Epis- "copal Church in the United States of America.

"Whereas, In the course of Divine Providence, "the Protestant Episcopal Church in the United

"States of America has become independent of all "foreign authority, civil or ecclesiastical."

"The preamble then recited the meeting of depu- "ties in New York, in October, 1784, and the recom- "mendation to send deputies to Philadelphia in order "to unite in a constitution of ecclesiastical govern- "ment, agreeably to certain fundamental principles "expressed in such recommendation, and pro- "ceeded—

"And whereas, In consequence of the said recom- "mendation and proposal, clerical and lay deputies "have been duly appointed from said Church, in the "states of New York, New Jersey, Pennsylvania, "Delaware, Maryland, Virginia, and South Carolina; "the said deputies being now assembled, and taking "into consideration the importance of maintaining "uniformity in doctrine, discipline, and worship in the "said Church, do hereby determine and declare:"

"Then followed the articles of the Constitution. "Most of these are substantially the same as those "now in force, as will be seen hereafter, when they "are stated at length."

"The eleventh article was as follows:

"The Constitution of the Protestant Episcopal "Church, in the United States of America, when "ratified by the Church in a majority of the states "assembled in General Convention, with sufficient "power for the purpose of such ratification, shall be "unalterable by the Convention of any particular "state which hath been represented at the time of "such ratification." (Bioren 25).

"On the 24th of June, 1786, the following recommendation was passed: "That the several state "Conventions do authorize and empower the deputies "to the next General Convention, after we shall "have obtained a bishop or bishops in our Church, "to ratify a general Constitution respecting both the "doctrine and discipline of the Protestant Episcopal "Church."

"On the 10th of October, 1786, an adjourned "Convention was held, at which the chief business "was the consideration of letters by the Archbishops, and Bishops of England. The states of "Virginia and Maryland were not represented in this "adjourned Convention. Copies of the proceedings "were ordered to be sent to the standing committees."

"The next meeting of the General Convention "was in July, 1789. Bishops White, Seabury, "and Provoost had then been consecrated. The "former attended and presided. A committee was "appointed to take into consideration the proposed "Constitution, and to recommend such additions and "alterations as they should think proper."

"On the 1st of August, 1789, the committee "reported the Constitution. It consisted of nine "articles, and it was resolved, 'That the 1st, 2nd, "4th, 5th, 6th, 7th and 8th articles be adopted, and "stand in this order, 1, 2, 3, 4, 5, 6 and 7, and "that they be a rule of conduct for this Convention; "and that the remaining articles, viz., the 3d and "9th, be postponed for future consideration.'"

"On the 7th of August, the Convention discussed "the two articles which had been postponed, and

"which, after amendment, were agreed to. The "Constitution was then ordered to be engrossed for "signing. On the 8th of August, it was read and "signed by the Convention. Every delegate appears "to have subscribed it, except two from Delaware, "and one from Maryland. Both clergy and laity, "however, of these states were represented by those "who did sign."

"On the 5th of August, 1789, the following "resolves were unanimously passed:

"*Resolved*, That a complete order of Bishops, "derived as well under the English as the Scottish "line of Episcopacy, doth now subsist within the "United States of America, in the persons of the "Right Rev. William White, the Right Rev. Samuel "Provoost, and the Right Rev. Samuel Seabury."

"*Resolved*, That the said three Bishops are fully "competent to every proper act and duty of the "Episcopal office and character in these United "States, as well in respect to the consecration of other "bishops, and the ordering of priests and deacons, as "for the government of the Church, according to "such rules, canons, and institutions as now are, or "hereafter may be, duly made and ordained by the "Church."

"This Convention was adjourned from August, "1789, to the 29th of September ensuing, in order "to meet the views of the churches of Massachusetts, "Connecticut, and New Hampshire. At that time "its labors were resumed. It was resolved, the "better to promote union with the eastern church, "that the General Constitution was open to amend-

"ments and alterations. A committee was chosen "to confer with the Eastern churches. That com- "mittee reported the assent of the deputies from "those churches to the Constitution, except as to "the third article; and their readiness to unite, "provided that this article was so amended as to "authorize the Bishops, when sitting as a separate "house, to originate any measures, and to negative "the acts of the other house. The committee re- "commended the adoption of these suggested "changes. The Convention agreed to them, mod- "ifying the veto, however, so that a law might "be passed if still adhered to by four-fifths of "the House of Deputies. On the 2nd of October, "1789, Bishop Seabury and the Deputies from Con- "necticut, Massachusetts, and New Hampshire, gave "their assent to the Constitution as thus modified, "and the labors and cares of this Convention ceased."

The Constitution was duly signed in the following order, to wit: First, by the two bishops present, Bishops Seabury and White; next, by the deputies from New Hampshire, Massachusetts, and Connecticut, and then by all the other deputies. It would seem that the Constitution was regarded as dating and deriving its validity from this subscription of the full Convention, rather than from that of the 8th of the preceding August; and the sessions of the Convention were thus happily brought to a close, and a National Church organized, embracing all the Episcopal Churches of all the states represented in the Convention, with a Constitution that was satisfactory to and binding upon them all.

The question at once arose, what is the law of this new organization, the Protestant Episcopal Church in the United States of America? It was evident that it could not, like a colonial church, claim as its birthright such English law as it might deem applicable to its circumstances, for the reason that in 1789, when this Church was organized, England was a foreign country, and an independent church, like an independent state, cannot be subject to foreign law.

So far as English laws and usages had been adopted by the colonial churches in their congregations, they were still the laws and usages of such congregations, so that, practically, the doctrine, discipline, and worship of the Church of England continued to exist in all the churches in the different states, precisely as before the Revolution.

But the question presented was, whether, technically, the new organization, as a matter of course, took over from the dioceses, or the churches of the different states, their laws and usages without any action on its part, or whether, to that end, such affirmative action was necessary.

The question was not, whether the same laws and usages that prevailed in the colonial churches should be recognized and adopted by the new National Church, for all were agreed as to that; but how was this to be done. It is not strange that the eminent lawyers of that day, whose judgment was that the government of the United States had no common law, and could adopt, as a source of jurisdiction, neither English nor colonial law, except by positive legislation, should have come to the same conclusion as to

the National Church, and its relation to English and colonial ecclesiastical law; and such seems to have been the fact. The House of Deputies of the General Convention of 1789 refused to admit the binding obligation of any ecclesiastical law, canonical or otherwise, upon the National Church, when confessedly applicable, further than as they should distinctly, and by legislation, recognize the same.*

The rule, as recognized by the Courts of the United States, is thus referred to by Chancellor Kent, (1 Kent's Com. 338):

"Mr. Du Ponceau, in his 'Dissertation on the "Nature and Extent of the Jurisdiction of the Courts "of the United States,' has ably examined the sub-"ject, and shed strong light on this intricate and "perplexed branch of the national jurisprudence. "He pursues the distinction originally taken in the "Circuit Court in Massachusetts, and maintains that "we have not, under our federal government, any "common law, considered as a source of jurisdiction; "while, on the other hand, the common law, consid-"ered merely as the means or instrument of exercis-"ing the jurisdiction conferred by the Constitution "and laws of the Union, does exist, and forms a safe "and beneficial system of national jurisprudence. The "courts cannot derive their right to act from the "common law. They must look for that right to the "Constitution and law of the United States. But "when the general jurisdiction and authority is given, "as in cases of admiralty and maritime jurisdiction,

*See Memoirs of the Church, page 171; Vinton's Manual, page 15; Hoffman's Law of Church, page 37.

"the rules of action under that jurisdiction, if not "prescribed by statute, may and must be taken from "the common law, when they are applicable, because "they are necessary to give effect to the jurisdiction." And Chancellor Kent expresses his approval of the views thus presented.

The Convention of 1789, recognizing the same legal principle, refused to adopt the 4th Article of the Constitution framed by the Convention of 1785, providing that the Book of Common Prayer and Administration of the Sacraments, and other rites and ceremonies of the Church of England, should be continued to be used by the Church, as *altered* by the Convention, but instead thereof adopted Article 8 of our present Constitution, which is in these words:

"A Book of Common Prayer, Administration of "the Sacraments, and other rites and ceremonies "of the Church, articles of religion, and a form and "manner of making, ordaining, and consecrating "Bishops, Priests, and Deacons, when established by "this or a future General Convention, shall be used "in the Protestant Episcopal Church in those states "which shall have adopted this Constitution."

The additional provision now found in Article 8th of the Constitution, as to the mode of making alterations in the Book of Common Prayer, was made by the Convention of 1848.

The resolution of the House of Deputies referred to, and the form given to the 8th Article of the Constitution, led to much dissatisfaction, as they were supposed to involve the denial of the existence, since the Revolution, of any laws or institutions in the

CHAP. I.

churches of the different dioceses, until enacted or provided by the General Convention; whereas, they involved no such denial at all, but simply asserted that the new National Church, in order to avail itself of the laws and institutions still in force and existing in the colonial churches, must by legislation adopt them, as there was no other way in which it could legally be done. This was only the application to the National Church of the same rule that has been recognized by the Supreme Court of the United States as applicable to the National Government in regard to its laws. It was a technical question as to the proper mode of reaching a result which all desired, and the judgment of the House of Deputies seems to have been fully sustained by the adjudications of the Supreme Court referred to; and certainly, as a matter of safety, if not of necessity, the action of the House of Deputies, as well as that of the Convention, was wise; for it would have been a troublesome, and perhaps dangerous experiment, for the Church to have attempted the exercise of a common law jurisdiction, in defiance of a well settled principle of law, recognized by the Courts of the United States. The course pursued by the Convention secured for the National Church, by legislation, beyond all possibility of doubt, the essential laws and usages that were in force in the colonial churches, but the form given to the 8th Article of the Constitution, taken in connection with the resolution of the House of Deputies, seems to be conclusive to the point, that the Convention considered no law or usage binding upon the National Church, without such legislation.

The ratification of the Book of Common Prayer by the General Convention of 1789, is in these words:

"This Convention having, in their present session, set forth a Book of Common Prayer and "Administration of the Sacraments, and other rites "and ceremonies of the Church, do hereby establish "the said Book; and they declare it to be the Liturgy of this Church, and require that it be received "as such by all members of the same; and this Book "shall be in use from and after the first day of October, in the year of our Lord one thousand seven "hundred and ninety."

The first paragraph of the Preface to the Book of Common Prayer is as follows:

"It is a most invaluable part of that blessed liberty wherewith Christ hath made us free, that in his "worship different forms and usages may, without "offense, be allowed, provided the substance of the "Faith be kept entire; and that in every church, "what cannot be clearly determined to belong to "Doctrine must be referred to Discipline; and therefore, by common consent and authority, may be "altered, abridged, enlarged, amended, or otherwise "disposed of, *as may seem most convenient for the* "*edification of the people*, according to the various "exigencies of times and occasions."

A very eminent canonist, Judge Hoffman, in his able work on the Law of the Church, pp. 40, 41, gives as his conclusion that the whole body of English ecclesiastical law, with certain unavoidable qualifications, was the rule of the colonial churches,

and rests his argument mainly upon the language above quoted from the Preface to the Book of Common Prayer. He says, Law of the Church, p. 40:

Meaning of term "Discipline."

"Now, what did the discipline of the English "Church comprehend? It embraced the establish- "ment and prescription of the Book of Prayer, to "be used throughout the realm; the adoption by "ministers of, and subscription to the articles of faith; "the regulation of rites and ceremonies by canons "and rubrics; and just as much, just as fully and "absolutely did it comprise the whole body of ecclesi- "astical law, by which the Church, in all other par- "ticulars, was controlled and directed. That this "whole body of discipline was the rule of the co- "lonial church, with the unavoidable qualifications "before adverted to, is a point which admits not of "dispute."

See Appendix A.

Judge Hoffman's view.

It seems very remarkable that Judge Hoffman should have inferred from the statement in the Preface, that "whatever cannot be clearly determined to belong to doctrine, must be referred to discipline," that the Convention of 1789, in the teeth of the resolution referred to, adopted by the House of Deputies, did, in fact, recognize the whole body of English ecclesiastical law, with the unavoidable qualifications referred to, as in force, in the Protestant Episcopal Church in the United States, without any affirmative action on its part, and when the 8th Article of the Constitution shows conclusively that the convention deemed it necessary to legislate as to the essential points of doctrine, discipline, and worship, and did not regard the Book of Prayer,

Administration of the Sacraments, and other rites and ceremonies of the English Church, as legally binding upon the Protestant Episcopal Church in the United States, until, and only so far as established by the General Convention thereof.

The Constitution itself was a radical departure from English ecclesiastical law, in all its leading features. It created, as the supreme legislative power of the Church, a General Convention, composed equally of clergy and laity, and it made the bishops eligible by conventions of the dioceses similarly constituted, while it recognized these dioceses as having control of all their merely local church interests. The preamble to the Constitution, as originally framed in 1785, states, that "the said deputies being now assembled, and taking into consideration the importance of maintaining uniformity in doctrine, discipline, and worship, in the said Church, do hereby determine and declare," etc. On this point, Judge Hoffman says, p. 120: "It (the General Convention) cannot adopt any law for discipline, of a limited and local operation. It must be for the whole Church, and uniform throughout the Church."

The dioceses have control of all merely local legislation, and, as to this, differ widely from each other. And yet, while the National Church and the dioceses have alike, in their methods of working, discarded almost every principle of English ecclesiastical law, and the dioceses have separated widely from each other, they have not departed, in any essential point, from the doctrine, discipline, and worship of the Church of England.

The word "discipline," as used in the Preface to the Prayer Book, evidently refers, not to the canon law in general, but only to that part of the "forms and usages" of the Church in public worship, therein referred to, that "does not belong to doctrine," and to which reference is made in our standard authorities on Church law, under different forms of expression. The language of the Preface to the Prayer Book, as to alterations and amendments is as follows: "They will "appear, and it is to be hoped, the reasons of them also, "upon a comparison of this with the Book of Com- "mon Prayer of the Church of England. In which "it will also appear that this Church is far from intend- "ing to depart from the Church of England in any "essential point of doctrine, discipline, or worship; or "further than local circumstances require." The meaning of this language evidently is, that the essential principles of the Church of England, in their forms and usages, have not been departed from; but not that we recognize their whole system of ecclesiastical law as, in any sense, binding upon us. No such thing as this is shown by a comparison of the two books.

In the statement of principles presented by the Convention of the Church in Pennsylvania, in 1784, as hereinbefore stated, and which was probably the work of Bishop White, the following language is used to express the same idea of maintaining the essential principles of the doctrine, discipline, and worship of the English Church:

"3d. That the doctrines of the Gospel be main- "tained as now professed by the Church of England,

"and uniformity of worship continued, as near as "may be, to the liturgy of the said Church."

"4th. That the succession of the ministry be "agreeable to the usage which requires the three "orders of bishops, priests, and deacons; that the "rights and powers of the same, respectively, be "ascertained, and that they be exercised according "to reasonable laws to be duly made."

The 4th item of the resolutions of the meeting held in New York in October, 1784, is as follows: "That the said Church shall maintain the doctrines "of the Gospel, as now held by the Church of Eng- "land, and shall adhere to the liturgy of said Church "as far as shall be consistent with the American Revo- "lution, and the constitutions of the respective "states."

The Convention of 1786, in its answer to the letter of the English bishops, expresses "an assurance "of there being no intention of departing from the "constituent principles of the Church of England."

The clergy of Connecticut, in their letter to the Archbishop of York, say: "Notwithstanding the "dissolution of our civil connection with the parent "state, we still hope to retain the religious polity, the "primitive and evangelical doctrine and discipline, "which, at the Reformation, were restored and estab- "lished in the Church of England."

The Memorial of the Church of New Jersey of May 19, 1786, to the General Convention, requests said Convention that it will remove every cause that may have excited any jealousy or fear that the Episcopal Church in the United States has any in-

tention or desire essentially to depart, either in doctrine or discipline, from the Church of England; but, on the contrary, to convince the world that it is its wish and intention to maintain the doctrines of the Gospel, as now held by the Church of England, and to adhere to the liturgy of said Church, as far as shall be consistent with the American Revolution, and the constitutions of the respective states.

The following is the language used in the declaration to be made by candidates for Holy Orders, under the provisions of Article 7 of the Constitution:

"And I do solemnly engage to conform to the "doctrines and worship of the Protestant Episcopal "Church in the United States."

The General Convention, in its letter to the Archbishops and Bishops of the English Church, dated June 26, 1786, used the following language: "While "doubts remain of our continuing to hold the same "essential articles of faith and discipline with the "Church of England, we acknowledge the propriety "of suspending a compliance with our request. We "are unanimous and explicit in assuring your Lord-"ships that we neither have departed, nor propose to "depart, from the doctrines of your Church. We "have retained the same discipline and forms of wor-"ship, as far as was consistent with our civil consti-"tutions, and we have made no alterations or omis-"sions in the Book of Common Prayer but such as "that consideration prescribed, and such as were "calculated to remove objections, which, it appeared "to us, more conducive to union and general content "to obviate than to dispute."

The Archbishops of Canterbury and York, in their letter to the Committee of the General Convention at Philadelphia, allude, among other things, to "communications with regard to your liturgy, articles "and ecclesiastical constitution, without the knowl- "edge of which we could not presume to apply to the "legislature for such powers as were necessary to "the completion of your wishes."*

In the first Article of the Constitution of the Church in South Africa, in different language, but to the same effect, as in the Preface to our Book of Common Prayer, the determination not to depart from the doctrine, discipline, and worship of the Church of England is expressed as follows (see case of *Merriman vs. Williams*, before cited):

"The Church of the Province of South Africa "receives the doctrines, sacraments, and discipline of "the Church of Christ, as the same are contained and "commanded in Holy Scripture, according as the "Church of England has received and set forth the "same in its standards of faith and doctrine; and it "receives the Book of Common Prayer, and of order- "ing of Bishops, Priests, and Deacons, to be used "according to the form therein prescribed in public "prayer, and administration of the Sacraments, and "other holy offices; and it accepts the English ver- "sion of the Holy Scriptures, as appointed to be read "in the Churches; and further, it disclaims for itself "the right of altering any of the aforesaid standards "of faith and doctrine."

*See Half Century of Legislation, page 51.

CHAP. I.

A careful examination of this phraseology and of the documents referred to, and others which will be found at length, in the Appendix, will show conclusively that the word "discipline," as used in the Preface to the Book of Common Prayer, was not understood to have any reference to ordinary ecclesiastical legislation or canons in force in the Church of England, but simply to those "forms and usages" in public worship, that, being distinct from doctrine were therefore subject to change, from time to time, "as may seem most convenient for the edification of the people." A book of discipline is not a book of canons; and it is difficult to see upon what authority Judge Hoffman's definition of the term "discipline," making it comprise "the whole body of ecclesiastical law" of the Church of England, could have been supposed to rest. It was the honestly expressed opinion of an eminent man and lawyer, but it is believed to be unsustained by authority, either historical or legal. But even if, in this specific sense, a wider sense were implied, including whatever in the Church is established by mere human authority, and is therefore susceptible of diversity, and liable to change; still, it would not follow from the language of the Preface, when interpreted in the light of the 8th Article of the Constitution, that the whole discipline, as thus understood, including all the laws and canons of the Church of England, was binding on the Church in this country, unless intrinsically inapplicable, or positively repealed. If this were so, and disuse is not to be regarded as proof that a law was inap-

plicable to the condition of a colony, then it follows that for more than one hundred years prior to the Revolution, the colonial churches were necessarily subjected to foreign law without reference to their consent or wishes. Surely this was never the condition, either in Church or State, of any English colony.

Our Church has never repealed the Prayer Book of the Church of England, nor did she set forth that Prayer Book with amendments, but she set forth independently a Prayer Book of her own, as expressly stated in the Ratification, and as appears from the action of the General Convention of 1789 in detail; and what is thus true of the Prayer Book, is also plainly and emphatically true of the Constitution and canons of the Church. To the article No. 35, of our Articles of Religion established by the Convention in 1801, we find appended in brackets, among other things, the following explicit declaration: "This article is received in this Church, so far as it declares the Books of Homilies to be an explication of Christian doctrine, and instructive in piety and morals. But all references to the constitution and laws of England are considered inapplicable to the circumstances of this Church."

The General Convention gave unequivocal assurances that it had no intention or desire to depart, in any essential point, from the doctrine, or the forms and usages of the Church of England in public worship; but, to this end, it considered it necessary, by affirmative legislation, to recognize and adopt this "doctrine, discipline, and worship," as its own; and it did so by Article 8th of the Constitution of the

Church and the ratification of the Book of Common Prayer. In addition to this, it even went so far as to enact the following canon:

"CANON I."

"Of the orders of the Ministry in this Church."

"In this Church there shall always be three orders "in the Ministry, namely: Bishops, Priests, and "Deacons."

The Convention of 1789 thus established by law, its Book of Common Prayer, with the rites, ceremonies, and usages of public worship; and deemed it expedient, also, to provide by canon for the permanent continuance of the three orders of the ministry; and with these facts before us, we cannot suppose that this same Convention intended, in the Preface to its Book of Common Prayer, to promise not to depart from the ecclesiastical law of England, which was non-essential, and which, according to the English authorities, they did not possess, or to recognize as binding upon the Church in the United States any canon law whatever, whether enacted by Councils, Emperors, Popes, or Parliaments, until the same should, in like manner, have been first affirmatively adopted by the General Convention.

Express assent of the Church to a law essential.

At the date of the Revolution, therefore, and at the meeting of the General Convention of 1789, there was, as has been said, a Protestent Episcopal Church in each of the original thirteen states or dioceses, and the Prayer Book of the Church of England, with its offices, rites, and ceremonies, had been adopted by, and was, therefore, the law of all these churches.

At the first general meeting to adopt measures for union, which was held in New York, on October 6th, 1784, it was recommended to the states represented, and proposed to those not represented, to organize and associate "themselves in the states "to which they respectively belong, agreeably to "such rules as they shall think proper; and when "this was done, it was further recommended and pro- "posed, that all should unite in a general ecclesiastical "Constitution." Hawkes Ecclesiastical Contributions, p. 6.

The object of thus uniting in a Constitution of ecclesiastical government was, as stated in the preamble, the maintaining of uniformity in doctrine, discipline, and worship, and to that end, it was agreed by the convention held in Philadelphia, in 1784, before referred to, that the Episcopal Church "hath, and ought to have, in common with all other religious societies, full and exclusive power to regulate the concerns of its own communion." "That to make canons or laws, there be no other authority than that of a representative body of the clergy and laity conjointly;" and "that no powers be delegated to a general ecclesiastical government, except such as can not conveniently be exercised by the clergy and laity, in their respective congregations."

The colonial churches then had adopted to a certain extent, either expressly or tacitly, the "forms and usages" of the Church of England. In public worship, they had expressly adopted the Prayer Book, and had tacitly therefore adopted whatever, by fair legal presumption, is implied in what was thus

expressly adopted, as for instance, the recognition of the terms and definitions belonging to the Prayer Book, and the three orders of the ministry with their respective duties and prerogatives.

Now, the General Convention of 1789, averred that it had no intention of departing in any essential point from these "forms and usages" in public worship, but it came together to consider how best to *maintain* them by means of a National Church.

It is admitted on all hands, that the Church has full and exclusive authority over the whole subject of legislation, either in the General Convention, for general interests, or in the conventions of the dioceses, for local purposes. The sole question as to which differences of opinion exist is this: Shall the Church, in all cases, first determine for itself, whether a foreign canon is applicable or desirable, and is its express assent necessary, in order to make such canon binding, or may somebody else decide for it in the first instance, and a canon thus be treated as binding upon the Church without its express assent, and until it has expressly dissented? The analogies of all English and American law would seem conclusively to show that the express assent of the Church is essential, in all cases, before any foreign canon can be binding upon it.

Express assent of the Church to a law essential.

The colonial churches, having neither courts nor legislatures, could manifest their assent to a canon, only by usage; while the Protestant Episcopal Church in the United States, having no courts or usage, can give its assent only by legislation. It is sometimes claimed that the analogy between the law of the

United States and of the Protestant Episcopal Church in the United States is not applicable, for the reason that the state was and is simply the creature of law, while, in the Church, the bishops are the source of all canonical law, and of its administration, and that it is only by their consent that others, and especially the laity, have any share in ecclesiastical legislation or administration.

Relations of Bishops to legislation.

The answer to this suggestion is, that no such principle is recognized in English ecclesiastical law; but, on the contrary, the law of England deals with bishops precisely as with clergy and laity; and before it, all are absolutely equal. In England, laymen are judges in ecclesiastical courts. Bishops are appointed by the Crown, under a mere pretense of election. Parliament enacts all ecclesiastical laws, and has done so since the year 1717 without even the concurrence of convocation; and it will hardly be claimed that Parliament derives its powers from the bishops.

It is to be carefully observed, that this assertion of the exclusive jurisdiction of the General Convention over the canon law of the Protestant Episcopal Church in the United States, does not, in the slightest degree, cut us off from the vast resources at our command, in the history and legislation of the Church in past ages, of which Judge Hoffman expresses his fear. It serves only to shield us from the caprices of individual men or parties, in selecting canons for us, and gives us, in all cases, the protection of the deliberate judgment of the whole Church, acting through its constituted authorities.

CHAP. I.

Summary.

We have then as laws and regulations for the government of the Protestant Episcopal Church in the United States, as follows:

1. The Constitution of the Church, and the canons of the General Convention thereby authorized.

2. The constitutions and canons of the several dioceses, of force only in such dioceses, respectively; and subject to the lawful authority of the General Convention.

3. The rubrics of the Church, and in some particulars, the articles.

4. The civil laws of the states affecting the churches, and their members, in regard to corporate or personal rights, civil privileges, and the acquisition and preservation of property.

5. Such forms and usages and laws of the Church of England as have been adopted by this Church, in her constitution and canons.

CHAPTER II.

THE Constitution of the Protestant Episcopal Church in the United States of America was finally adopted on the 2d day of October, 1789. On the 29th day of July, 1789, a declaration was made in the Convention, by the deputies, as to the powers conferred upon them in the premises, and which is thus stated in its journal:

"The deputies from the several states being called upon to declare their powers, relative to the object of the following resolution of the Protestant Episcopal Church, viz.,—'Resolved, That it be recommended to the Conventions of this Church in the several states represented in this Convention, that they authorize and empower their deputies to the next General Convention, after we shall have obtained a bishop or bishops in our Church, to confirm and ratify a General Constitution, respecting both the doctrine and discipline of the Protestant Episcopal Church in the United States of America,'—gave information that they came fully authorized to ratify a Book of Common Prayer, etc., for the use of the Church."

The preface to the journal of the proceedings of the General Convention, at its adjourned session beginning September 29, 1789, is as follows:

Objects of the Constitution as stated by its framers.

"At a convention of the Protestant Episcopal Church in the states of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina, held in Christ Church, in the city of Philadelphia, from July 28th to August 8th, 1789, upon the consideration of certain communications from the bishop and clergy of the church in Connecticut, and from the clergy in the churches of Massachusetts and New Hampshire, it was resolved to adjourn to the 29th day of September following, in order to meet the said churches, for the purpose of settling articles of union, discipline, uniformity of worship, and general government among all the churches in the United States."

In the address of the members of the General Convention to the Archbishops of Canterbury and York, bearing date August 8, 1789, (see Half Century of Legislation, etc., page 134), after averring their attachment to the faith and doctrine of the Church of England, and that not a wish appears to prevail among the clergy or laity of ever departing from that church in any essential article, they, among other things, say:

"The business of most material consequence which hath come before us, at our present meeting, hath been an application from our sister churches in the Eastern states, expressing their earnest desire of a general union of the whole Episcopal Church in the United States, both in doctrine and discipline; and, as a primary means of such union, praying the assistance of our bishops in the consecration of a Bishop-elect for the states of Massachusetts and New

Hampshire. We therefore judge it necessary to accompany this address with the papers which have come before us on that very interesting subject, and of the proceedings we have had thereupon, by which you will be enabled to judge concerning the particular delicacy of our situation, and, probably, to relieve us from any difficulties which may be found therein."

The language of Bishop Seabury, as quoted in said communication to the Archbishops, is as follows:

"The wish of my heart, and the wish of the clergy and of the church people of this state, would certainly have carried me and some of the clergy to your General Convention, had we conceived we could have attended with propriety. The necessity of an union of all the churches, and the disadvantages of our present disunion, we feel and lament equally with you; and I agree with you, that there may be a strong and efficacious union between churches, where the usages are different. I see not why it may not be so in the present case, as soon as you have removed those obstructions which, while they remain, must prevent all possibility of uniting. The Church of Connecticut consists, at present, of nineteen clergymen in full orders, and more than twenty thousand people they suppose, as respectable as the church in any state in the union."

The members of the convention in their letter further say, that they have unanimously resolved "that the Right Rev. Dr. White and the Right Rev. Dr. Provoost be, and they hereby are, requested to join with the Right Rev. Dr. Seabury, in complying with

the prayer of the clergy of the states of Massachusetts and New Hampshire, for the consecration of the Rev. Edward Bass, Bishop-elect of the churches in the said states; but that, before the said bishops comply with the request aforesaid, it be proposed to the churches in the New England states to meet the churches of these states, with the said three bishops, in an adjourned convention, to settle certain articles of union and discipline among all the churches, previous to such consecration."

The Constitution is thus referred to by the men who framed it, and while its provisions were under discussion as "a general constitution respecting both the doctrine and discipline of the Protestant Episcopal Church in the United States of America," as "articles of union, discipline, uniformity of worship, and general government among all the churches in the United States," as "a general union of the whole Episcopal Church in the United States both in doctrine and discipline," and as "articles of union and discipline among all the churches."

Powers of the General Convention under it.

The powers of the General Convention are not defined in the Constitution, and the extent of these powers must therefore be determined by the terms of the instrument, construed in such way as to be consistent with the declared objects of its framers, the circumstances under which it was framed, and above all, the powers conferred by the dioceses upon those who framed it, by which powers it is necessarily controlled and limited; upon the principle that a special power of attorney always controls and limits the acts of the agent under it, and all assumption of power

to act beyond its fair meaning and scope is absolutely void and of no effect.

The authority under which the deputies who framed the Constitution acted, was undoubtedly limited, and, if so, they could not, by any action of theirs, exceed such authority. The presumption is, that they had no intention of so doing, and the legislation of the Church, during all its history, in both the General and diocesan Conventions, confirms this presumption.

It is true that in case the Convention of 1789 had exceeded its powers, and the dioceses, when aware of the fact, had all ratified its action, the defects would have been cured by such ratification; but there was no express ratification by all the dioceses, and a ratification, with such knowledge, by acquiescence of the dioceses, can hardly be presumed, when it is evident from the documents referred to, that the General Convention of 1789 intended to act strictly within the limits of its authority, and the dioceses had no reason to suppose that it had exceeded them. Bishop White, who drafted the Constitution, and may therefore be supposed to have known its purpose and meaning, says:

"It has been all along his (Bishop White's) "opinion, and there will be more and more ground "for it, in proportion as our ecclesiastical organiza- "tion shall be operative over the American territory, "that the authority and the deliberations of the Gen- "eral Convention should be limited to matters essen- "tial to the keeping of us together as one body, and "requiring agreement with a view to that end. All

CHAP. 2.

"enlargement of the jurisdiction endangers contro-
"versy, and, of course, division." Memoirs, p. 283.

Relations to the Dioceses.

The Constitution recognizes a general ecclesiastical government, and local diocesan governments, a National Church and diocesan churches, and a union of diocesan churches; and although the analogy is not perfect between this and our federal system of civil government, yet we find in each a federal union for the purposes of government, and it is difficult to see how the Constitution can ever be so amended or construed by the General Convention, as to break up or seriously impair this union, which was the very object for which the Constitution was framed. We have then a general government as a National Church, and local governments as diocesan churches, and there is no clashing of interests or powers between them. Each church has or may have its charitable and other organizations for such Christian work as is incident to the being and life of a Church, and each has its separate field of labor.

See Appendix C.

If the principles thus set forth are to be relied on, the Protestant Episcopal Church in the United States of America is an ecclesiastical body, independent as such in its government and administration, and organized for the purpose of maintaining as a church, uniformity in its doctrine, discipline, and worship, or, as expressed in the resolution of June 24, 1786, of the General Convention, uniformity in doctrine and discipline, which is precisely to the same effect.

It is evident, therefore, that it was the intention of the framers of the Constitution to provide in that

instrument for the exercise of all powers, legislative or otherwise, that they regarded as necessary and proper, in order to enable the National Church to maintain this uniformity in doctrine, discipline, and worship.

For this purpose the Constitution provided for a General Convention, to be composed of clergy and laity in equal numbers, as a legislative body, competent to enact canons under certain limitations expressed therein. It is evident from the action of the preliminary meetings which led to the organization of a National Church, that the power to enact canons in a General Convention of clergy and laity from all the dioceses, for the purpose of maintaining uniformity in doctrine and discipline, was especially contemplated by the churches in the different states or dioceses. It is thus expressed in the fundamental principles adopted at the meeting held in Philadelphia, in May, 1784:

"That to make canons or laws, there be no other "authority than that of a representative body of the "clergy and laity conjointly."

The action of the General Convention of 1789, as well as of all subsequent conventions, is in keeping with this view.

Their jurisdiction.

For purposes, therefore, which are distinctly indicated in the resolution of June 24, 1786, and in the preamble to the Constitution, and which are evident upon the face of the instrument itself, the National Church is sovereign within the limitations referred to, but it cannot trench upon the rights of the dioceses to manage exclusively their separate and distinct

interests, nor can a diocese, in its action, properly pass beyond the limits of its strictly local jurisdiction, and trench upon the constitutional prerogatives of the National Church.

In the original draft of the Constitution adopted by the General Convention of 1786, it was provided by Article 3d as follows:

"In the said Church, in every state represented "in this convention, there shall be a convention con- "sisting of the clergy and lay deputies of the congre- "gations."

This provision was very properly omitted in the Constitution as adopted in 1789, as the conventions of the dioceses were already in existence, independently of this Constitution which was framed by deputies elected by them, and the existence of these diocesan conventions is expressly recognized in the 2d, 4th, 6th, and 9th Articles of the Constitution.

The Church a Federal Union.

The true principle of federal government is thus stated by Freeman in his "History of Federal Government," page 3: "Two requisites seem necessary "to constitute a federal government, in its most per- "fect form. On the one hand, each of the members "of the union must be wholly independent in those "matters which concern each member only. On the "other hand, all must be subject to a common power "in those matters which concern the whole body of "members collectively."

No confederation of dioceses, in which all are not represented, would be admissible under the Constitution, which is a union of all the dioceses for all pur-

poses that are not strictly local, and therefore within diocesan control.

The line of demarcation between the jurisdiction of the Church, as thus organized, and that of the respective dioceses, may not in all cases be clear, but there is undoubtedly such a line, and it is sufficiently distinct for practical purposes, as is seen from the fact, that no serious difficulty has ever arisen between the General Convention and any diocese in the matter of jurisdiction, although it has always been taken for granted that the Constitution contemplates a federal union of, and not a central government over, dioceses. Whatever differences of opinion may, at any time, have existed, they have been found gradually to yield to the fair, manly, Christian sentiment and treatment of the Church at large. Her dioceses and members are loyal to her, for the reason that their judgments are always appealed to, and a fair consideration is given to every honest suggestion; and her conclusions therefore being reached in good faith, as to matters which she believes to come fairly within her jurisdiction, are usually, sooner or later, cheerfully acquiesced in. It is important, however, in order to maintain this kindly relation to the dioceses, that the Church, in all her departments, shall recognize the fact, that the Protestant Episcopal Church in the United States acknowledges no foreign law, canonical or otherwise, as binding upon her, in her government and administration, until she has first adopted it, and thus made it her own.

Some confusion in discussions on Church law has grown out of the fact that our creeds and

standards recognize "the Holy Catholic Church," "the Holy Church throughout all the world," "the mystical body of Christ which is the blessed company of all faithful people;" of which great mystical brotherhood the Church of England and the Church in this country are undoubtedly members. But it must be borne in mind in using these terms that they refer to the unity of a common faith and not to a legal organization; and that the relations of the former to the latter are necessarily spiritual, not legal. The Church of England like our own, and every other national church, is so far as the civil enactments of the state admit of it, legally sovereign and independent within its own limits, and fixes and determines for itself, exclusively, the legal rights and obligations of all its members.

The question as to the source and scope of the power of the General Convention to enact canons has been discussed by Judge Hoffman, and especially the legal effect of the canons first enacted by it on the 7th day of August, 1789, being the day before the first signing of the Constitution by the members of the convention. As to the latter point, it is sufficient to say, that it was evidently from a mere oversight of the convention, that these canons were acted upon the day before the Constitution, which had been already agreed upon, was technically adopted by the signatures of the members; and that, at the next General Convention, to wit, in 1792, they were, as stated by Judge Hoffman, re-enacted, in order to remove all doubt as to their validity. It does not seem necessary, therefore, to determine what would

have been the legal effect of these canons without such ratification. As to the other point, to wit, the source and scope of the power of the General Convention to enact canons, Judge Hoffman says:

"I submit (with much deference upon a point "almost untouched) that upon every question of "jurisdiction, the inquiry is not, whether the power "has been conferred, but whether it has been denied "or restricted."

See Appendix B.

If Judge Hoffman is right in his conclusions, then the dioceses, under whose auspices, and by whose deputies the Constitution was framed, instead of conferring by that instrument upon the General Convention a limited authority to enact canons, lost thereby their own independence and became subordinate to the General Convention as to all powers, legislative or otherwise, that were not carefully reserved to them in that instrument, and shall not be taken from them by amendment of the same. Surely this could not have been the understanding of the framers of the Constitution, or the meaning of the resolution of June 24, 1786, under the terms of which they acted.

Power of General Convention to enact canons.

It is submitted with confidence, that the proceedings of the Convention of 1786, which substantially framed the Constitution, in connection with those of the Convention of 1789, which finally adopted it, show conclusively, that the legal effect of that instrument must be, as its terms indicate, to confer certain limited powers essential to a National Church, upon the new organization created by it, and that the General Convention is bound to confine its action within the prescribed limits, and to those matters which con-

cern the whole body of members of the union collectively, leaving the respective dioceses independent as to all matters which concern dioceses only. Judge Hoffman refers to certain canons of the General Convention as indicating the assertion by it of an unlimited authority in legislation, except as otherwise expressly provided in the Constitution, and in reference to this point says: "It is impossible to find in that instrument (the Constitution), either in express language, or by any warrantable inference, any provisions on which to rest the validity of the greater part of the canons." He says further: "For example, the present 37th canon defines the offenses for which a minister may be tried and punished. By other canons certain offenses or neglects are punishable or censurable. There is not a sentence in the Constitution upon which these provisions can be placed as their authority and warrant."

The canon of the General Convention of 1789, directing that there shall be a standing committee in every diocese, with the subsequent canons upon the same subject, and the canon of 1804, in reference to the induction of ministers, are all included by Judge Hoffman in the same category, as not authorized expressly or impliedly by the Constitution, but as resting upon an undefined mass of powers which the General Convention possesses over the affairs of the dioceses independently of the provisions of the Constitution, because not "denied or restricted" by it.

The canons thus referred to would seem to come fairly within the scope of the General Convention, as the legislative body that is responsible for uni-

formity in the doctrine, discipline, and worship of the Church. This is evidently so, as to the definition of offenses for which a minister may be tried and punished. The canons in reference to standing committees in the dioceses furnish a limitation or qualification of episcopal authority and supervision, by associating with the bishop as an advisory council, a body elected by each diocesan convention, and thus representing both the clergy and laity, and usually composed of an equal number of both; and which body, in case of a vacancy in the Episcopate, is to be, for the time being, the ecclesiastical authority of the diocese. If "uniformity in discipline" has any meaning, it would seem to justify a canon that thus asserts the distinctive feature of the American Church, to-wit, the recognition of the rights of both clergy and laity in her administration, in accordance with the usage of the Primitive Church. The duties of these standing committees furnish the best evidence of their value, as a part of the machinery of church government, and their history attests the wisdom of the General Convention in providing for them. They serve especially to connect the laity with the Episcopate, and the whole administration of the affairs of the dioceses. So far as the canon requiring the induction of ministers is concerned, it was evidently designed to give stability of official tenure, and thus to counteract a fearful evil which has become well nigh intolerable in all Protestant churches, to wit, the tendency to make of ministers of the Gospel, mere hirelings, by the year, or the month, or the day. But important as was the object

in view, the General Convention of 1808, in order to avoid the possibility of interfering with the constitutional rights of dioceses, provided that "the institution shall not be necessary where it interferes with the laws or usages of a Church in a particular diocese."

There is apparently nothing in the canons thus referred to or their history, that is in conflict with the fair treatment of the dioceses, and a due regard for their strict constitutional rights.

It would be strange if no mistakes were to be made by the General Convention in this matter of jurisdiction, considering the hurried character of its sessions, and the impossibility of giving to every subject presented, a thorough consideration; but, in looking over the canons, we do not discover any serious infringement of the rights of dioceses by that body.*

*In order to insure a more careful consideration of difficult and important questions, it has been suggested that the General Convention shall revert to its original practice of appointing a standing committee to sit during the recess, between its sessions, which committee was dispensed with on the organization of standing committees of the respective dioceses. The suggestion is worthy of consideration.

CHAPTER III.

THE Constitution as published in the journal of the General Convention of 1880, and also the Constitutions of 1786 and 1789, will be found in Appendix F.

Name of the Church.

The name given to the new organization, to wit, The Protestant Episcopal Church in the United States of America, is significant of its character. It is a Church, in the United States, Protestant in its principles, Episcopal in its government.

See Appendix D.

Its significance.

The first question suggested by the name is, What is to be understood by the term church, as thus used? The definition given by Hooker, and cited with approval by Bishop Hopkins, declares "them which call upon the name of our Lord Jesus Christ," or as expressed by Bishop Hopkins, "all who profess to acknowledge the Lord Jesus Christ," to be his Church. The creeds of the Protestant Episcopal Church in the United States, answer, in all respects, the requirements of this, or any satisfactory definition of a Christian church. They rest upon what the Church believes to be facts; the manifestation of the Divine in human life; and not upon the opinions or speculations of men; and therein lies all our hope of ultimate Christian unity.

Secondly, It is a church in the United States; one church among many. Believing that episcopacy furnishes the best system of church government, this

CHAP. 3.

Church does not regard it as the only system. The religious bodies about us, that accept the facts set forth in the Apostles creed, are Christian churches. They are recognized as such in the preface to the Book of Common Prayer, which uses this language:

"But when in the course of Divine Providence, "these American States became independent with re- "spect to civil government, their ecclesiastical inde- "pendence was necessarily included; and the different "religious denominations of Christians in these states, "were left at full and equal liberty to model and or- "ganize their respective churches, and forms of wor- "ship, and discipline, in such manner as they might "judge most convenient for their future prosperity, "consistently with the constitution and laws of their "country."

See Appendix D and E.

Bishop Hopkins considers it clear, "that the "want of episcopal government is a defect, and a se- "rious defect; but that the churches which have it "not, may, nevertheless, be true churches, so far as "regards the essentials of a church."

It is in this sense that, in both our morning and evening daily service, "we pray for thy holy Church "universal; that it may be so guided and governed "by thy good Spirit, that all who profess and call "themselves Christians, may be led into the way of "truth, and hold the faith in unity of spirit, in the "bond of peace, and in righteousness of life."

Thirdly, It is a Protestant Episcopal Church. When the English coronation oath was framed in 1688, after the expulsion of James II from the throne, the king was made to swear, among other things, to sup-

port the Protestant religion established by law. The term Protestant had a very intelligible meaning. It meant freedom of mind and conscience, from all tyranny, political or ecclesiastical; and its value was measured by what it had cost the British nation to secure it. The 5th article of the act of union of Great Britain and Ireland (40 George III, C. 38,) is as follows: "That it be the 5th article of the union, "that the churches of England and Ireland, as now "by law established, be united in one Protestant "Episcopal Church, to be called the United Church "of England and Ireland, and that the doctrines, "worship, discipline, and government of the said "United Church shall be and shall remain in full "force forever, as the same are now by law estab- "lished for the Church of England, and that the con- "tinuance and preservation of said United Church, "as the established Church of England and Ireland "shall be deemed and taken to be an essential and "fundamental part of the union."

In 1789, the memory of the struggles of the Reformation had not entirely died out, and hence, this word Protestant is placed in the forefront of the Constitution. Since that day, the peculiar dangers of Protestantism, and especially its tendency to disintegration and individualism, have been more clearly developed, while its history has to some extent been lost sight of; and the reverence that was once felt for the name, has in a measure disappeared. But the term Protestant has still all the meaning and value that it had in 1789, or in 1688, and, however it may be with other branches of the Church, for us, its dangers

are not formidable. We connect with Protestantism, both in the name and Constitution of the Church, the Episcopate, which, in every age, and under all forms of government, has been the great conservative force of the Church, and the term "Protestant Episcopal" in the name, indicates that union of progress and conservatism, which is the safety of all free government, and which in the Protestant Episcopal Church in the United States, has proved itself stronger than even the disintegrating forces of civil war. This Church believes that episcopal supervision and control furnish the only reliable security against the tendency of Protestantism to disintegration and individualism, and it regards episcopacy as of Apostolic origin and essential to the well being of a church, and an indispensable element in any practicable system of Christian unity.

Episcopacy

Representation of Dioceses in General Convention.

The equal representation of the dioceses in General Convention, as provided for in the Constitution, rests upon the principle of a generous expediency, and does not follow the theory of representation to its logical results. Equality of representation among the dioceses, is a recognition of something higher than the power of wealth or numbers in the government of the Church, and by securing the dignity and equality of the respective dioceses, places them all in their relations to each other, upon the footing of mutual esteem and confidence, rather than of legal compulsion. Spiritual truth is not amenable to majorities: they have only to do with the instrumentalities for proclaiming it. This equality of dioceses brings to the General Convention many of

our ablest men from all the dioceses, even the most distant, at a great sacrifice of time and expense; and a seat in the Convention is regarded as a high honor. If the representation in the General Convention were based simply upon numbers, so that a few of the larger dioceses could control its action, and the smaller dioceses not be appreciably felt in the result, it is greatly to be feared, that the interest now manifested in its sessions and deliberations would gradually disappear, and that the work of the Church in the General Convention would be left to the few dioceses that would be found usually to control it, the remainder feeling that they have practically no part or lot in the matter. Under the Constitution as it now stands, when the public sentiment of the Church settles down fully upon a proposition, legal or otherwise, there are few men that will venture to disregard it; certainly not enough to disturb the current of its influence; and when the larger dioceses, with their intelligence and strength bring about results in her councils, they are submitted to in a kindly spirit and temper, for the reason that they are reached by moral influences, and not by the pressure of numbers.

In relation to this point of equality of representation, Dr. Hawks says, (Contributions, etc., p. 20): "The ratio of representation is here "fixed; not on the principle of wealth, or size, or "numbers, but on the ground of entire parity of "rank in our dioceses, be they great or small. "Bishop White has often been heard by the author "to say, that on no other ground would the dioceses "ever have come into union. Diocesan equality is

"therefore here asserted; and further, diocesan independency in all matters not surrendered for the "great end of union; for any diocese may demand "a vote by dioceses."

There has been a tradition to the same effect, and the older members of the General Convention have generally recognized the fact to which Bishop White referred, as amounting to an understanding that this feature of the equality of dioceses should not be disturbed. Legally, of course, it may be, but the results might prove disastrous to the present organization of the Protestant Episcopal Church in the United States, and compel an entire re-adjustment of our system of church government.

See Report of Seventh Ch. Congress, p. 162.

It is believed that no serious evils have grown out of our present constitutional provision as to the ratio of representation, and it certainly will be the safer course to wait until such evils shall have appeared, and not venture upon a radical change of the Constitution in this respect until it shall have been dictated by a practical instead of a supposed logical necessity.

It must be admitted, however, that the constitutional provision for equal representation is in danger, owing mainly to a rapid increase in the number of feeble dioceses; and the Church will probably be called upon, at no distant day, to reconsider the question and determine, whether her policy in the future shall be to have fewer dioceses with equal representation, or an indefinite multiplication of dioceses with proportional representation.

So far as judicial proceedings are concerned in the trial of ministers, no change was made, but the original powers of the dioceses were left untouched by the Constitution; and this is the reason why courts of appeal have been supposed to be under the absolute control of the dioceses, since, as well as before, its adoption. It has been thought by some of our wisest leaders, that a general court of appeal is or will soon be necessary, from the growth and extent of the Church and its interests. The English ecclesiastical courts, like the civil tribunals, are clothed by law with all the powers essential to the thorough administration of justice; but it cannot be said that the results of the system are reassuring, and it is doubtful whether the faith of the church has in any respect been materially affected by any of the decisions of the English courts. Faith is never settled by litigation. *Cases* only are determined by it.

Judicial Power.

Court of Appeal.

In this country, the interference of the civil authority with ecclesiastical questions, is, by common consent, deemed wholly inadmissible; and the consequence is, that ecclesiastical courts, however constituted, are necessarily helpless in the trial of cases, and especially in the preparation of them for trial. Thorough litigation in these courts is an impossibility. We can have no adequate machinery in them, no pleadings, no compulsory attendance of witnesses, no costs assessed, no paid judiciary, no provision for expenses which, in many cases, in a country so vast, must be enormous. We therefore leave litigation to the dioceses, as the least expensive and least objectionable system; and to them only so far as is absolutely neces-

sary for the discipline of offenders. By the Constitution of 1789, the duty of instituting the mode for the trial of ministers, was imposed upon the dioceses; but in the year 1848, article VI. of the Constitution was amended, and it was left discretionary with them to do so or not. It is stated by Dr. Hawks, that many of the dioceses had neglected to act in the matter, and this probably led to the change referred to. So far as the dioceses may decline to exercise this discretionary power, but no farther, it undoubtedly comes within the scope of the powers of the General Convention.

The sole question in relation to the expediency of a court of appeal is this: Does the present system of diocesan courts work such injustice to litigants, as to make a court of revision necessary? Is justice denied them to such an extent as to demand a change in its administration, and can a court of appeal be so constituted as to remedy the evil? The sole business of courts is to administer justice between litigating parties, and they deal exclusively with the acts, and not with the consciences of men. They are in no respect ministers of the Gospel. By the decision in the Dred Scott case, the litigating parties were bound, but the conscience of the nation was not bound; and so it must always be with any wrong judicial decision. It is binding upon the litigants whether right or wrong, but the question whether it *is* right, is always an open one, and subject to an untrammeled public criticism and judgment alike in church and state.

Relation of Courts to the faith of the Church.

Decisions of courts, so far as the consciences of men are concerned, operate morally not legally, incidentally not directly, as arguments not as authority. They seek to regulate the actions, not the thoughts of men. If diocesan courts shall fail to do this, their appropriate work, satisfactorily, and such uncertainty shall follow a multiplicity of conflicting decisions as to work injustice, or threaten serious confusion, a court of appeal may become necessary as a last resort; but there is nothing in the present condition of the Church that indicates such necessity.

The Church wisely tolerates differences of opinion and judgment, until time shall have done its work of softening asperities, quieting excitement, and developing the deliberate judgment of the whole Church, or until practical evils shall have been disclosed, that demand a remedy. There are difficulties necessarily incident to any judicial system, but it should never be forgotten that the faith of the Church cannot rest upon the decisions of courts, but is entirely independent of them all. The essential facts of Christianity are set forth in our standards of belief—the creeds of the Church; but the interpretation of these facts, the inferences to be drawn from them, opinions in regard to them, cannot be so set forth, either by courts of justice, or councils, or conventions; and the only security from serious error in reference to these, is to be found in that "patient continuance in well doing" of the Christian life, that throws light upon so many problems that mere human speculation fails to solve.

CHAP. 3.

House of Bishops as a Court of Appeal.

If, however, experience shall finally show that we must have a court of appeal, the House of Bishops would seem to be the body to which such powers can, with the aid of assessors learned in the law, be most safely intrusted. Their independent tenure of office, their representation of the whole Church, high character, age, large experience, ability and attainments, the economy of their administration, and the historical fact that in the early ages of the Church they were its judges as well as governors, would seem to make it eminently proper, that any judicial power that shall be found to be absolutely necessary for controlling dioceses and preserving the faith of the Church, should be vested in the House of Bishops, which, while in one sense representing all the dioceses, is absolutely independent of them all.

Thus the Protestant Episcopal Church in the United States of America has framed its Constitution, established its Book of Common Prayer, and, from time to time, enacts its canons; and being, like the Church of England, an independent Church, suffers no foreign law to gain a foothold here, unless voluntarily received and adopted, and thus made a part of the law of the American Church. It is not necessary for scholars and antiquaries to dig our law out of the accumulations of a thousand years, and tell us what it is, for it is all to be found in our Constitutions, canons, and history, including so far as the respective dioceses are concerned, such usages, if any, as have become a part of their law.

APPENDIX

APPENDIXES.

APPENDIX A.

OF THE LAW OF THE CHURCH.

The laws and regulations concerning the discipline of the Protestant Episcopal Church of the United States may be thus arranged:

1st. The Constitution and Canons of the General Convention, forming a code for the uniform government of every Diocese and every Church.

2d. The Constitution and Canons of the several Dioceses, of force only within their several precincts, and generally subordinate to the power of the General Convention.

3d. The Rubrics of the Church, and in some particulars, the Articles.

4th. The civil laws of the States affecting the Churches and their members, in regard to corporate or personal rights, civil privileges, and the acquisition and preservation of property.

5th. And to these, in my judgment, is to be added a portion of the Ecclesiastical Law of England; of that law strictly so called, and distinguished from what in that kingdom is known as the Foreign Canon Law.

The Constitutions and Canons, and those portions of the laws of the States which are applicable, will be hereafter stated and discussed. I shall seek in this introduction to prove that the Ecclesiastical Law of England has an actual force and operation in the system of our Church—to point out the extent of that operation—its limits and qualifications.

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The separate action of the Churches in the States, after the Revolution, and prior to or about the period of the organization of the General Convention, is the next subject of inquiry.

On the day after the Declaration of Independence, the Convention of Virginia altered the Book of Common Prayer to accommodate it to the change of affairs.* This document is found in the State Library, in Albany. It contains various alterations of the service, almost exclusively relating to the prayers for rulers, and closes as follows:

"Let every other sentence of the Litany be retained, without any other alteration, except the above sentences recited."

By the act of the Assembly of Virginia, of 1784, the vestrymen were required to subscribe a Declaration of Conformity to the Doctrine, Discipline, and Worship of the Protestant Episcopal Church.†

Among the regulations of 1785, it was provided, that the Liturgy of the Church of England should be used with such alterations only as had been rendered necessary by the American Revolution.‡

In 1790, during the bitter assaults upon the rights of the Church to the glebes, it was resolved by the Convention, "That the Protestant Episcopal Church is the exclusive owner of the glebes, churches, and other property held by the Church of England in Virginia, at the commencement of the Revolution;"‖ and, in 1799, an opinion was given by Bushrod Washington, Edmund Randolph, and John Wickham, asserting the same doctrine as was contained in the resolution of the Convention.

The action of Maryland is of the highest importance. In 1775, the authorities prescribed a form of prayer for the new, instead of the old government, and required an oath of the clergy to support it.

In 1783, the celebrated Declaration of fundamental rights was issued by the first convention. It was declared that "the Church of Maryland possessed the right to *preserve and complete herself as an entire Church, agreeably to her ancient usages and professions:* that she had the essential enjoyment of those spiritual powers which are essential to the being of every Church, independent of any foreign or other jurisdiction, so far as may be consistent with the civil rights of society."

It was also declared, "that the churches, chapels, glebes, and other property formerly belonging to the Church of England, belonged to that Church and were secured to it forever"; and it closed with the following admirable passage: "As it is the right, "so it will be the duty of the said Church, (when duly organized, "constituted, and represented in a synod or convention of the dif-"ferent orders of her ministers and people,) to revise her liturgy, "forms of prayer, and public worship, in order to adapt the same "to the late revolution, and other local circumstances of America;

*Hawks' *Contr.* vol. 1, p. 238.

†Ibid. 163.

‡Ibid. 182.

‖Ibid. 209. An Essay was read by Dr. Madison upon this subject.

"which, it is humbly conceived, may be done without any "other departure from the venerable order and beautiful forms of "worship of the Church from which we sprung, than may be "found expedient in the change of our situation from a daughter to a sister Church."

In the Vestry act passed by the State of Maryland, in 1798, and adopted by the Church as part of its organization, there is a clause expressly recognizing the Church of England as having been the same as the Protestant Episcopal Church of Maryland.*

By the Constitution of South Carolina, 31st May, 1786, it was declared that the doctrines of the Gospel be maintained as now professed in the Church of England, and uniformity of worship be continued as near as may be to the liturgy of the said Church. (DALCHO'S *Hist.*, etc., p. 474.)

The action and judgment of Pennsylvania are shown by the fundamental articles adopted in May, 1784. One of them was, that the said Church shall maintain the doctrines of the Gospel as now held by the Church of England, and shall adhere to the liturgy of the said Church as far as shall be consistent with the American Revolution and the Constitution of the respective States.†

In September, 1784, Massachusetts declared certain articles, the third of which was almost in the identical language of that of Pennsylvania above quoted.‡

The State of New Jersey, in May, 1786, passed a set of rules and regulations. By the 9th, a declaration was required from every clergyman before he could officiate in the State, "that he engaged to conform to the discipline of the Church, and also to the doctrines and worship agreeable to the Book of Common Prayer of the Church of England, except the political alterations in the mode of worship made therein by the Convention held in Philadelphia, from the 27th September to the 7th October, 1785."

In New York, in 1790, it was resolved as follows:

"Whereas, Many respectable members of our Church are alarmed at the Articles of our Religion not being inserted in our new Book of Common Prayer,

Resolved, That the Articles of the Church of England as they now stand, except such part thereof as affect the political government of this country, be held in full force and virtue until a further provision is made by the General Convention." ‖

A proposition was submitted in 1791, instructing the Deputies to vote for retaining the Articles of Religion as they now stand in the old Book of Common Prayer, without any alterations, except such as are of a political nature. The motion was deferred. In 1801, instructions were given to that effect.⁋

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*HAWKS' *Contr.*, vol. ii., p. 330. Compilation of the Constitution, etc. Baltimore, 1849, p. 275, ⁋ 16.

†White's *Memoirs*, 73. ‡Ibid. 69.

‖Journal, 1790, p. 39.

⁋Journal, 1801.

The Convention of New Jersey, in May, 1786, after debate, agreed to a memorial to the General Convention, in which the following admirable passages are to be found: "Your memorialists do not question the right of every national or independent Church to make such alterations from time to time in the mode of its public worship as may be found convenient; but they doubt the right of any order or orders of men in an Episcopal Church without a Bishop, to make any alterations not warranted by immediate necessity, especially such as not only go to the mode of its worship, but also to its doctrines. Your memorialists having an anxious desire of cementing, perpetuating, and extending the union so happily begun in the Church, with all deference, humbly request the General Convention that they will revise the proceedings of the late Convention and their committee, and remove every cause that may have excited any jealousy or fear that the Episcopal Church in the United States of America has any intention or desire essentially to depart, either in doctrine or discipline, from the Church of England; but on the contrary, to convince the world that it is their wish and intention to maintain the doctrines of the Gospel as now held by the Church of England, and to adhere to the liturgy of the said Church, as far as shall be consistent with the American Revolution and the Constitutions of the respective States." †

Among the documents of great value connected with the history of the Church in Connecticut, which I have examined, is a letter from Doctor, afterwards Bishop Jarvis, dated May, 1786, which expresses the views of the clergy of Connecticut. Among other things, he remarks: "In the planting and growth of the Church in America, I have always understood that the Church of England was propagated and enlarged. Now, as our Church was in her original a part, and is, in her formation, the image of that—if we still adhere to the worship and doctrine, is it not proper (the question may be, whether it be not needful) to declare so authoritatively? I would, then, submit the following particulars: 1. That it be recommended to the Bishop to call a convocation, at which a resolution should be moved that we adopt the liturgy of the Church of England entire, except the prayers for the State, and the offices appointed for state days; or with some few abbreviations, such as will do no injury to he sense, order, or connection of the whole. 2. That some particular prayers be added to those for special occasions, viz: for sick children, for persons under affliction for the death of friends, and for persons bound to sea, etc. 3. That such of the rubrics as we have found it necessary to deviate from, be altered where some alteration only is wanted; or others made, that are necessary to render our service and practice strictly rubrical and uniform. 4. That there be a revision of the canons, and such as are applicable, or may be made so, be selected; and in matters for which it is needful to provide entire

†Proceedings of the Convention N. Jersey: Trenton, 1787.

new ones, suitable to the state and circumstances of our Church, that such be provided and confirmed by act of convocation."

In the year 1814, the following important act took place in the General Convention. The House of Bishops, and that of Clerical and Lay Deputies, united in the following declaration:

"It having been credibly stated to the House of Bishops, that on questions in reference to property devised before the Revolution to congregations belonging to the Church of England and to uses connected with that name, some doubts have been entertained in regard to the identity of the body to which the two names have been applied; the House think it expedient to make these declarations, and to request the concurrence of the House of Clerical and Lay Deputies therein, viz.: That the Protestant Episcopal Church in the United States of America, is the same body heretofore known in these States by the name of the Church of England; the change of name, although not of religious principle in doctrine, or in worship, or in discipline, being induced by a characteristic of the Church of England, supposing the independence of the Christian Churches under the different sovereignties, to which respectively their allegiance in civil concerns belongs. But it would be contrary to fact for any one to infer that the discipline exercised in this Church, or that any proceedings therein, are at all dependent on the will of the civil or ecclesiastical authority of any foreign country."

I add, in the note, the valuable and strong authority of Bishop White to the point now urged, as well as some other opinions. I would call attention to the perspicuous statement of the proposition by the late Thomas Addis Emmett.*

It appears to me difficult to overrate the force of the resolution of the Houses in 1814, and the similar proceedings in the States which have been mentioned. By the decided voice of the Church, separately expressed in Virginia and Maryland, and then uttered by the representative body of the whole Union, the iden-

* "In all the deliberations of the convention, the object was the perpetuation of the Episcopal Church, on the ground of the general principles which she had inherited from the Church of England, and of not departing from them except so far as local circumstances required, or some very important cause rendered proper. To those acquainted with the Church of England, it must be evident that this object was accomplished on the ratification of the Articles."

Again, "The political prayers were superseded, (by the revolution,) and the using them was punishable by events brought about in the course of Divine providence. To pray for our civil rulers was a duty bound on us by a higher authority than that of the Church.† In all other respects, I hold the former Ecclesiastical system to be binding. The conventions of our Church have always acted on the same principle, except that of October, 1789, whose adoption of a different principle has rendered our Liturgy much more imperfect (according to my opinion) than it would otherwise have been." (Appendix to WILSON'S *Life of Bishop White*, page 347.)

After speaking of Dr. Blackwall, he says, "He is of opinion, with the House of Clerical and Lay Deputies, in 1789, that our Church possesses no institutions until made for her specially. If the matter had been so understood

†See the admirable Thanksgiving Sermon of Bishop Stillingfleet, 1694.

tity of the Church of England with our own was proclaimed. In what then did this identity consist? How was it that the Protestant Episcopal Church in Virginia and Maryland continued to be the owners of that property, which was once vested in the Church of England in the colonies? Was it because the Liturgy was retained with several modifications—because the Articles were republished with some variations—because the faith was adhered to; or was it because the whole compact body of the English Church, in all integrity—as far, and in every particular as far, as it was not necessarily, or by express enactment, changed, was continued and perpetuated?

That Church comprehended, as integral portions of its very existence, not merely Articles and Liturgy, but laws and canons

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at the close of the revolutionary war, and there had been among us such spirits as I can now designate, it would have torn us to pieces." (Ibid. 348.)

In the Memoirs of the Church (p. 175) the Bishop goes through the discussion upon the Book of Common Prayer in the year 1789, and states the different principles upon which the House of Clerical and Lay Deputies and the Bishops proceeded. In the practical result, the views of the Bishops were carried out. The English book was made the basis. It was to remain, except as altered.

See also his work on the *Comparative View of the Calvanistic and Arminian Controversy*, vol. 2, page 191. So in the Memoirs of the Church he restates the position, and urges many reasons in its support, that what is now called "the Episcopal Church in the United States of America, is precisely in Succession the Body formerly known as the Church of England in America, the change of name having been a dictate of the change of circumstances in the civil constitution of the country."

The opinion of the House of Deputies in 1789 was in opposition to that of the Bishops, and Dr. Wilson (Life of Bishop White, p. 141) remarks, that this differed from the course taken both by previous and subsequent conventions, and being confined to one House, and not at any time afterwards pursued, cannot be regarded as a determination against the principle adopted by the Bishops.

Dr. Hawks (Constitution and Canons, p. 265) observes, "The opinions which were entertained in the mother country, and the decisions which had been made on matters of ecclesiastical law, or usage, up to the severance of these colonies by the Revolution, were, as far as applicable, held to be the guide of the Church of England here, and although the independence of the United States dissolved the connection, it evidently did not destroy the prevailing opinions among Churchmen as to matters and usages touching the Church. To the common and canon law of England we must therefore look, if we would fully understand the origin of much of the law of our own Church."

I add a passage from the argument of Mr. Emmet, in the case of the Rev. Cave Jones, (Report of the Case, etc, p. 493. New York, 1813,) "No man could be permitted to say, that nothing was permitted or restrained as to any particular matter in a newly erected state, since its own immediate legislature had passed no law or ordinance respecting it. The answer would be: the law which regulates it is prior to the existence of our state; it comes to us by inheritance from our fathers, and we brought it with us into this association. So it is with our ecclesiastical government. In organizing and becoming members of the Protestant Episcopal Church in America, no one considered himself as becoming a member of a new religion, or as adopting a different form or rules of ecclesiastical government, except so far as depended upon the connection in England between Church and State, and the regulations in that country produced by the king's being the head of the Church. These were all necessarily rejected as being inapplicable to our situation; but in every other respect, the rules and laws of our Mother Church, where they can be applied, are the common law of our own religious association."

for discipline and rule. On what possible ground can this identity be asserted, if the latter important fundamental element of identity is discarded?

Again, Another argument may be used which strikes me as of great weight. It is stated by the highest authority, that "in every Church, whatever cannot be clearly determined to belong to doctrine, must be referred to discipline; and that this Church was far from intending to depart from the Church of England in any *essential point* of doctrine, discipline, or worship, or farther than local circumstances require." *

Let us ascertain what is the sense of the term "discipline," when used in ecclesiastical writings.

It has, I apprehend, two meanings: *First*, The administration of punishment for offenses. *Next*, The regulation and government of the Church. The following passage from Bishop Gibson affords an illustration of the first meaning: "The very office of consecration, so often confirmed by parliament, warrants every Bishop, in the clearest and fullest terms, to claim authority by the Word of God, for the correcting and punishing of such as be unquiet, disobedient, and criminous, *i. e.*, for the exercise of all manner of *spiritual discipline*." †

The other meaning is of more importance to the present argument. In the preface to the English Book of Common Prayer (2d and 5th Ed. VI., "Of Ceremonies, why some be abolished and others retained,") is the following clause: "Although the keeping or omitting of a ceremony, in itself considered, is but a small thing, yet the wilful and contemptuous transgression of a common order and *discipline* is no small offense before God."

Again, 'And, besides, Christ's Gospel is not a ceremonial law; but it is a religion to serve God, not in the bondage of the figure or shadow, but in the freedom of the spirit, being content only with those ceremonies which do serve to a decent order and godly discipline."

The Book of Common Prayer received some alterations after the accession of James, and in the proclamation of that monarch is the following sentence: "And now, upon our entry into this realm, being importuned with informations of many ministers, complaining of errors and imperfections in the Church here, as well in matter of Doctrine as of Discipline," etc.‡

And in the statute (13th–14th Charles II., § 1,) the publication of all books bringing into contempt the *Doctrine or Discipline* of the Church of England is prohibited.

But I do not find anywhere a passage more admirably illustrative of this subject, than in the preface to the Canons to the Scottish Church, adopted in 1839: "The doctrines of the Church, as founded on the authority of Scripture, being free and immovable,

*Preface to the Book of Common Prayer, 16th October, 1789.

†Gibson's *Codex*, vol. 1, p. 18.

‡Statutes at Large, vol. 2, p. 438.

ought to be uniformly received and adhered to, in all times and all places. The same is to be said of its government, in all those essential parts of its constitution which were prescribed by its adorable Head. But in the discipline which may be adopted for furthering the purposes of ecclesiastical government, regulating the solemnities of public worship as to time, place, and form, and restraining and rectifying the evils occasioned by human depravity, this character of immutability is not to be looked for." †

Now, what did the discipline of the English Church comprehend? It embraced the establishment and prescription of the Book of Common Prayer, to be used throughout the realm; the adoption by ministers of, and subscription to the articles of faith; the regulation of rites and ceremonies by canons and rubrics; and just as much, just as fully and absolutely, did it comprise the whole body of ecclesiastical law by which the Church, in all other particulars, was controlled and directed. That this whole body of discipline was the rule of the colonial church, with the unavoidable qualifications before adverted to, is a point which admits not of dispute.

When, then, we find our Church declaring, in one of its most solemn acts, that all which is not of doctrine is of discipline; that she meant not to depart from the Church of England in doctrine or discipline, further than local circumstances required; when we find that the body of English ecclesiastical law was an undoubted part of discipline in that Church and in the colonial church; when we find no discrimination made between what of discipline is binding and what is annulled, the conclusion seems irresistible, that this law, with necessary modifications, retained the same authority after the Revolution which it possessed before.

And what advantage can we reap by *severing the tie* with the Church of England, in this particular, when the wisest of our fathers cherished the connection in every other, as the pillar and foundation of truth? Far from their thoughts and feelings was that pride of isolation and arrogance of judgment, which would treat the Catholic Church as the newly-reared fabric of its members' will; "as if it were a body in itself, indebted to no one, related to no one, without fathers, without brethren—as if it had fallen, like the Roman sacred shield, immediately from Heaven."

And what advantages do we not lose, when we disclaim this healthful and time-honored union? Looking at the question merely as a lawyer and searcher for truth, we abandon, (and for a dim untrodden path,) the road illumined by the shining lights of English intellect in the Church and on the bench. For our *instruction* and *guidance* we have the well-known names of Coke, Holt, and Hardwicke, of Nichols, Stowell, and Lee, in the tribu-

†*Apud Burns' Ecc. Law* by Phillimore, vol. 415. Hooker thus uses the term, "As we are to believe forever the articles of evangelical doctrine, so the precepts and discipline we are in like sort bound for ever to observe."

The following occurs in an oration of Cicero, "Hæcgitur est tua Disciplina, sic tu institutis adolescentes?"—*Pro Cælo.*

nals of justice; of Ridley, Gibson, Stillingfleet, and a cloud of others, among the English cononists. Under their auspices, we shall find "happier walls" than our own abilities can rear, or our own fancies can devise. Here we may attain to certainty, the mother of quietness and repose.

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The result of the preceding investigations, it is submitted, is this:

First. That the body of the foreign canon law is presumptively without force or authority in England; and that in every particular case where it is sought to render one of its regulations available, the burthen of proving that such regulation had been adopted in England, rests affirmatively upon the party adducing it.

That the legatine constitutions of Otho and Othobon stand upon the same footing.

Second. That the provincial constitutions have the presumption of legality and obligation attending them; and *whenever applicable* to a given case, impose the task upon the adverse party of showing *why they should not prevail.*

Third. That in addition to these elements of law, the statutes of the realm, the decisions of the civil tribunals, the cases and precedents in the spiritual courts, made up the body of that system of regulations known as the Ecclesiastical Law of England.

The comments and writings of eminent men were also sources of information; and all these, except the statutes, formed the testimonials and witnesses of the common law of the Church, in the same manner as similar records and reports are the evidences of the common law of the realm.

Fourth. That the canons of 1603, as well the acts after the Reformation, also constituted a portion of that law binding upon the clergy, but only binding upon the laity where admitted by long custom, or express recognition of the civil tribunals.

This, then, formed the great body of the English ecclesiastical law, when the Church was planted in this country; and this constituted the body of the law of the Church in the colonies. Many modifications arose from specific provisions of charters, or particular laws of the colonial assemblies, as well as from those changes in the situation of the people and usages of the community, which rendered some provisions incompatible or inapplicable. Then came the Revolution. It brought with it many necessary alterations in the law and discipline, as it did in the liturgy of the Church. These have become sufficiently defined in our system. And then the constitution of the Church at large, and the organization of the several dioceses, have led to a body of regulations partly original, partly adapted; and these, with statutes of the civil authority, cover a very extended field of law.

But there will yet remain many cases not provided for. In these, I submit, we are to ascertain what was the law of the

English Church. By that, such cases are presumptively to be decided; leaving it to be shown that such law is repugnant to some principle, settled custom, or institution of our own, secular or ecclesiastical.

Again,—another proposition results from these views, which it is supposed will meet with little objection: that upon every question of construction of a phrase or precept, its admitted acceptation in the English law is to prevail, until otherwise expressly interpreted.

I may state the result in these propositions:

1. The English canon law governs, unless it is inconsistent with, or superseded by, a positive institution of our own.

2. Unless it is at variance with any civil law or doctrine of the State, either recognized by the Church or not opposed to her principles.

3. Unless it is inconsistent with, or inapplicable to, that position in which the Church in these States is placed.

And let it not be thought, that in this loyalty to the English law, we abjure the liberty of a National Church, or admit a subserviency to a foreign authority. We do not break in upon the principle embodied in the statute 25 Henry VIII., and asserted in the noble language of the declaration of liberties of the Church in Maryland.

In submitting to the guidance of English authority, we render no other allegiance than every honest judge in the land renders to the decisions of Westminster Hall in civil matters. These decisions are the witnesses and testimonials of the law, liable to be discredited, open to controversy; but standing, until this is done, sure and faithful witnesses. So the cases in the ecclesiastical courts are the credible expositors of English canon law; and it is that law to which we are to resort for guidance in all unsettled points. We shall find this submission more useful and more noble than the license and the anarchy of an unrestricted, undirected, and unenlightened judgment.

Yet it is not that the foreign canon law is to be disregarded. That of which Lord Stowell declares, that "whatever may be thought of its pretensions to a divine origin, it is deeply enough founded in human wisdom:"—that which continues to influence even the stern features of the Scottish Reformation, may not be contemned.* But let it be resorted to with caution, and watched with the jealousy of the great doctors of the English Church. "It sprang from the ruins of the Roman empire, and the power of the Roman pontiffs," and partakes largely of the spirit of absolutism which might be expected from its origin.

*See FERGUSON'S *Consistorial Law of Scotland*. Introduction.

APPENDIX B.

OF THE CANONS OF THE CHURCH.

Upon this question of the force of the canons of the General Convention of 1789, and the power of that body to pass them, there are two theories. One is, that the convention had as ample power to pass these canons, as it had to adopt a constitution; the other, that the authority was assumed, and the canons became the law in the several states only when actually ratified, or from long acquiescence and submission.

It must again be noticed, that most of these canons are not to be supported upon any clause of the Constitution—were framed irrespective of it—and were actually passed before the Constitution was adopted.

Let us consider the consequences of the doctrine that the canons became the law only by ratification or acquiescence. By the one or the other, they became the settled law of the whole Church of the United States. What power, then, had any subsequent General Convention to repeal or modify them? Was not any act of repeal or modification in itself invalid, only capable of receiving validity from express sanction, or long submission?

And in the absence of express sanction to the repeal, what length of time would have amounted to proof of acquiescence, so as to render the repeal binding? If an express sanction to any set of canons had been given by a diocese, would it amount to a permission, or a compact? If the former, it was at any moment revocable. Would the revocation of an assent to the repeal have reinstated the repealed canons?

Again,—The original canons were, by a compact of the whole Church, (at least in the ten states,) the general law. If the General Convention could not repeal them, neither could any number of dioceses short of the whole, or short of a majority. Was the repeal in abeyance, until all or a majority had acted, or until such a period had elapsed as warranted the presumption of the assent of all?

Once more,—If the canons of 1789 depended for their obligatory power upon recognition positive or implied, then clearly in the latter case, and probably in the former, every diocese could supersede them, and establish a different law of its own upon the very subject matter of those canons.

From such difficulties, contradictions, and discordancies, what refuge have we except in that other and more comprehensive theory of the power of the General Convention of 1789? It may thus be stated: That convention, under the powers given to its delegates, strengthened by the ratifications of the dioceses, (even if strictly needless,) was constituted and approved as a body of supreme absolute power, to establish an ecclesiastical government for the whole Church of the United States. It seems useless to advert to the few limitations upon this power. Now it appears to me a clear proposition, that the authority to frame a whole code for the government of the Church could have been lawfully carried into effect, both by a constitution concentrating fundamental principles and perpetuating an organization, and by canons adapted to meet the various cases and details of government. The convention was equally competent for both. It could, by the very letter of its commission, have inserted in a constitution all regulations "respecting both the doctrine and discipline of the Church;" and if it could do this, it could embody such of them as it thought proper in a code of canons.

The question, then, before the convention of 1789, was one of selection and division; viz.: what points of government should be inserted in a constitution, (only to render them more stable, and the difficulty of altering or reversing them greater,) and what should remain in the shape of laws alterable at any meeting.

SECTION 3.

Assuming the soundness of this theory, we establish the binding force of the canons of 1789, but are yet to ascertain what is the power of subsequent General Conventions in relation to the laws of the Church—whence they have derived their power, and what is its extent? This was the second subject of examination.

The answer is plain. The development of the foregoing propositions inevitably leads to the conclusion that the power of the Convention of 1789 involved the power of rendering the system of government stable and enduring. Its office was not to establish a fugitive coalition, but a perpetual union. It possessed therefore the right of instituting and providing for the continuance of a body, with similar jurisdiction to its own; a body in which should reside all authority necessary for the purposes, and commensurate with the object of the Church; a body essentially of superior ultimate jurisdiction. Such a body was established when it was declared "that there should be a General Convention of

the Protestant Episcopal Church of the United States." Provision was made for its renovation and perpetuity; the elements of its organization were prescribed, and certain self-imposed restrictions were proclaimed.

There is another and higher view of the question. From the foundation of Christianity there never has been a Church without a body in which resided the ultimate and absolute power of government. In its earliest age, even two apostles would not assume the office of deciding the question raised at Antioch as to the circumcision of the Gentiles, but referred it to the judgment of the Council at Jerusalem. Passing by the great representation of the Church universal in the four first Councils, what national or provincial Church has ever been known without such a predominant body? It is anomalous and contradictory to speak of such a Church without it. When then, in 1789, the whole Church of the United States, through its competent representatives, declared, "there shall be a General Convention of the Protestant Episcopal Church in the United States," it enunciated the great principle that this was a National Church, and that such a Convention was to be its highest Council. The mere act of establishing this Council involved and attached to it every power inherent in such a body, and not expressly refused to it. Such powers are to be ascertained from the laws and practice of the apostles, the voice of ancient witnesses, the uninterrupted descent from age to age, from council to council, of known, and exercised, and unquestioned sway.

On the very day that the Constitution went into effect the Church in the United States had all the essential elements of a National Church. It had its Bishops. It had three Bishops within its limits, competent to transmit the succession and sufficient to compose a Synod.* The earnest objections of the clergy of Connecticut strongly set forth in the letter of the Rev Mr. Jarvis of 1783, and urged with such power in the address of the Convention of New Jersey in 1786, had been removed.† All the elements of a primitive apostolic Church in its perfection had been acquired. Imperfection existed in an undue conventional restriction of the power of the Bishops, and in other details; but the seeds of truth and primitive order were there, and gradually ripened, expanded, and prevailed.

In this situation, on the 2d October, 1789, the Constitution was adopted. On the 3d of that month it was resolved that agreeably to the Constitution, there is now in the convention a separate House of Bishops, and the Bishops then withdrew. On the 5th

*On the 5th August, 1789, a resolution was unanimously adopted, that a complete order of Bishops, derived as well under the English as the Scottish line of Episcopacy, doth now subsist within the United States of America, in the persons of the Rt. Rev. William White, the Rt. Rev. Samuel Provoost, and the Rt. Rev. Samuel Seabury.—(*Journals of the Gen. Conv.* p. 53.)

†*Memoirs of the Church*, 332. *Ibid.* 357.

October, the House of Bishops met, and it was provided that the senior Bishop should be the president.

What then prevents the conclusion, that thus was instituted the superior council of the Church of the United States? Not because there was no prelate anwering to the Archbishop, or Metropolitan, found in provincial councils. In relation to such assemblies, he was no more than the summoning and presiding officer. The Bishops in council could overrule him, and he could not dissolve a meeting without their consent. Not because the inferior clergy formed a part ot the council, with an equal voice in the enactment of laws. There are traces of their presence in almost every period, whatever may have been the extent of their power. But in England, especially since these bodies assumed the form of convocations, they have had a co-ordinate authority in this particular. In the province of Canterbury, also, they deliberated in a separate chamber. Nor again can it be, because the laity were admitted as members with a concurrent power in the making of canons.

Without entering into that discussion which the work of Sir Peter King produced, I content myself with the highest authority on one side of the question known to the American Church—that of Bishop Seabury. The main point of his objections to the introduction of the laity, contained in his celebrated letter of 1785, was their power to sit upon the trial of Bishops and Presbyters. But he united in a constitution which gave them co-equal authority in the formation of laws for the general Church, and he consented to their introduction into the Convention of Connecticut. This is sufficient to prove, that in the judgment of that eminent prelate, the presence and power of the laity in councils was no violation of the principles of a primitive Church, if not literally in accordance with primitive practice.*

We must distinguish between the Convention of 1789, and the General Convention established by it. The former was an imperfect body, constituted to legislate for an imperfect Church; but with power, when there were Bishops of the Church, to institute an organ for continuing and administering its government. The Bishops, two of them by their actual presence and participation, and the other by his then implied and subsequent express ratification, united in the formation of that body. These Bishops submitted to certain modifications of the model of a national or provincial council. In their judgment, these changes were compatible with the apostolic constitution of the Church; and when the convention of 1792 assembled, it met as the pre-eminent synod, as the Protestant Episcopal Church of the United States by representation. And amongst its acts, at that meeting, was the *republication*, or *re-enactment*, of the canons of 1789. (*Journals*, 1792, BIOREN.)

*I refer to a note to the Articles of the Constitution (post. Title 2) for authorities as to the composition of these councils, and in support of the above position.

The remarks on this most important subject have been much extended—a few observations will conclude them. In 1786, a constitution was first announced, and the deputies say, that "taking into consideration the importance of maintaining uniformity in doctrine, discipline, and worship in the said Church," they do declare and determine "that there shall be a General Convention of the Protestant Episcopal Church in the United States." Such was the article as adopted in 1789, and thus has it continued since. Now, what could possibly achieve the object of maintaining uniformity in discipline and worship, but this principle of ultimate authority in some constitutional body? What else could fulfill the primitive law of unity and perfection in a National Church—what else could have met the difficulties and exigencies of those days? Nothing saved us then, nothing but this can save us now, from being the dissevered members of separate congregations, and not the compact body of a National Church. I know there are some who look upon this union with distrust, and others with indifference; but the holiest and wisest of our fathers toiled for and prayed for it day and night—sorrowed as the cause was in tribulation, and rejoiced with joy unspeakable when it prospered. I believe that in spite of much that has been wrong, and more that has been imperfect, the prophetic visions of spiritual growth and beauty which arose upon their faith-brightened eyes, have been realized in the history of the Church, and realized through union.

Thus we have a theory of the power of the General Convention, adequate, consistent, and practical. There is neither safety, union, nor progress in any other; but there is every element of discord, and every omen of decay. I humbly trust that it will be found as well fortified by facts and argument, as it is simple and decisive.

And as to those dioceses which have subsequently come into union, the provisions of the fifth article of the Constitution coupled with (though not receiving their force from) the declarative recognitions in the constitutions of such dioceses, give to the General Convention the same full authority and legislative power.*

It has been before observed, that the great bulk of the canons cannot be supported upon the ground that the power to pass them

*The following is the form, with slight verbal changes, in the Constitution of North Carolina, Georgia, Mississippi, Louisiana and Ohio:—"The Protestant Episcopal Church in this State, adopts, accedes to, and recognizes the general constitution of the Protestant Episcopal Church of the United States, and acknowledges its authority accordingly." In the constitution of Missouri, it is thus:—"This Church acknowledges the authority ot the General Convention of the Protestant Episcopal Church in the United States of America." Of Wisconsin:—"The Church in the diocese of Wisconsin, desirous of entering into federal union with the Protestant Episcopal Church in the United States of America, does accordingly accede to, recognize, and adopt the general constitution and canons of that Church, and acknowledges its authority accordingly." There is a similar clause in the constitution of South Carolina. There is none in that of Maine, New York, Western New York, or Maryland.

is derived from any clause of the Constitution. This point requires further consideration.

Looking to the source of the power of the delegates, by whom the Constitution and canons were formed, we might be led to the supposition that the analogies of the Constitution of the United States would prevail; and that the quest on upon any law of the convention would be, whether the power to make it had been expressly granted, or by a necessary implication was vested in it under some clause of the Constitution.

But this rule of construction will be found inapplicable. It is impossible to find in that instrument, either in express language, or by any warrantable inference, any provisions on which to rest the validity of the greater part of the canons. Every power rightfully exercised by the Government of the United States in any of its branches, has its source and its bounds in some clause of the Constitution of the United States; but it would be vain to seek for such a sanction for most of our canons.

For example:—The present 37th canon defines the offenses for which a minister may be tried and punished. By other canons certain offenses or neglects are punishable or censurable. There is not a sentence in the Constitution upon which these provisions can be placed as their authority and warrant.

We may classify the articles of the Constitution thus:

First. Such as relate to the establishment and organization of a General Convention—its mode of performing business, and the alteration of the Constitution. The first, second, third, fifth, and ninth articles fall within this class.

Second. Such as confer upon the convention a power to legislate.

Third. Such as are in themselves positive acts of legislation.

Nothing falls under the second class but the first two sentences of the sixth article as to trying bishops, and that part of the eighth article which contemplates a future action as to the Prayer Book. The fifth canon falls, in part, within the first, and partly within the second class. All other provisions are within the third.

We have here a very limited foundation for the legislation of the convention over the whole Church. In truth, upon the doctrine of deriving authority from the Constitution, there would be no power in it, except to regulate its own organization, to govern all changes in the Prayer Book, and to direct the trial of bishops.

And from the view we have now taken, two classes of powers exist in this body—those conferred by the Constitution and those possessed without being so conferred. I have before stated what fall under the first head.

And as to the other powers, they vest in the General Convention by reason of its inherent sovereignty, and from their very nature cannot receive a strict definition or circumscription.

From this doctrine, some general rules necessarily flow.

1st. That, generally speaking in instances of the first class, viz., those in which a power to legislate is expressly given, all authority of the separate dioceses upon the subject is superseded at once, and before and without any exercise of the power by the General Convention.

2d. That until an act of legislation upon any such subject as the convention can act upon within the second class of powers, the authority of the dioceses is entire and unrestricted.

3d. That when an act of the General Convention upon such a matter is passed, it becomes the supreme law; superseding what has been done in a diocese or any power of a diocese at variance with it, and superseding the right to make any similar provision in a diocese *ad idem;* but abridging the power of the dioceses only so far as the law by just intendment extends.

4th. That therefore the dioceses still retain the power to legislate upon the same subject matter beyond the legislation of the convention, if no repugnance exists between the different acts of legislation.

I proceed to some illustrations of the above principles.

1st. A part of the sixth article, as before observed, confers a power upon the General Convention to legislate. The provision is this:—"The mode of trying bishops shall be provided by the General Convention. The court appointed for that purpose shall be composed of bishops only."

This clause was adopted in 1841. From the moment of its passage, I apprehend, the whole power of the diocese over the subject was annulled. The power thus conferred was exclusive in its very nature, and did not require that it should be exercised to produce an inhibition upon the dioceses.

It is true the General Convention passed a canon at the same session in which this part of the Constitution went into effect; but had they deferred it, still the dioceses could not have legislated in the matter; and clearly there could be no concurrent legislation after the convention did act. The history of this article will, I think, render this more clear, and be instructive upon the subject at large. (See post. Article 6.)

2d. The eighth article furnishes an exemplification of the principles now suggested of another kind. It directs that a Book of Common Prayer, etc., when established by this or a future General Convention, shall be used in the Protestant Episcopal Church in those States which shall have adopted this Constitution.

The Book of Common Prayer was ratified and established by a resolution of the Convention, dated the 16th day of October, 1789, but it was provided that it should go into effect on the first day of October, 1790. Now, unquestionably, during this interim, as well as during any period until the convention acted, the Church in the several states had the same control over the Prayer Book to

amend and establish it for each state, as the General Convention acquired for the whole Church.

The ninth article of the Constitution of 1785 indeed left the whole matter to them. But after the 1st of October, 1790, this eighth article became permanent and perfectly exclusive. There did not remain the slightest power over the subject in a Diocesan Convention.

Thus we find that, in 1787, a resolution was adopted in New York, that until further provision be made by the General Convention, the respective congregations of this Church be at liberty to use the new form of prayer or the old, as they respectively may think proper. (*Journals N. Y.*, p. 17.)

3d. An illustration of the fourth proposition may be found in an act of the convention of Maryland, of 1847. A committee appointed for that purpose, reported a set of canons, marked with great ability and care. Among them was one (the fifth) declaring what offenses of clergymen are punishable. This canon enumerated the offenses declared in the 37th canon of the General Convention, and added other distinct offenses taken from a former canon of Maryland respecting the laity. The committee say, "The language of our present 22d canon has the appearance of great vagueness. It has, therefore, been thought expedient to substitute for it an enumeration of offenses, taken partly from the 37th canon of the General Convention of 1832, and partly from the 17th canon of the old Maryland code, which defines the offenses for which a layman is liable to trial." A minority report, signed by Mr. Carroll, and drawn up with great ability and admirable perspicuity, treated the proposed canon as unconstitutional. It would be extremely difficult for any one to refute the premises of this report; but the conclusion does not seem warranted.

The journal does not furnish the reasons by which the report of the committee was sustained. From the character of the gentlemen of that committee, they, no doubt, were far more full and convincing than those I proceed to suggest.

If the principles which I have supposed to exist are sound, they answer the argument of Mr. Carroll. There was no such exclusive power upon the subject vested in the General Convention as precluded a diocese from acting before the General Convention did act. But there was a power in that convention to act, and when they did so, their rule became absolute and paramount; yet absolute and paramount to the extent to which it went, and no further. That Convention pronounced certain offenses punishable. No diocese could reverse or modify that law. But it did not pronounce that such enumerated offenses were the only offenses punishable. This allowed the diocese to enlarge the number within its own limits, if it was thought proper. The 3d canon of the diocese of Connecticut must be illegal, if this of Maryland is so.

It contains an enumeration of triable offenses, some of which are not included in the general canon.

Such I consider to be the power of the General Convention, and the remnant of authority left to the dioceses. But there are some restrictions upon this power, which arise from its nature and the object of its establishment.

The following may, I think, be laid down as free from difficulty:

1st. The General Convention cannot pass a canon conflicting with the General Constitution.

2d. It cannot adopt any canon for discipline of a limited and local operation. It must be for the whole Church, and uniform throughout the Church.

But is there not also some limit to its power in the Constitutions and regulations of the churches of the dioceses—some subjects of internal government which it may not touch? The question is one of great moment and nicety. I proceed to state some facts and to make some suggestions upon the subject.

It would, on first consideration, appear indisputable, that the regulation of a Diocesan Convention, and the qualifications of its members, were exclusively within its own control. We might, in like manner, suppose that the bodies through which its internal government was to be carried on, would be constituted solely by the separate conventions, and in such manner as they thought fit. Yet, as to the latter, there has been, since 1789, a canon unquestioned and submitted to, directing that there shall be a standing committee appointed in every diocese; since 1808, another, declaring the duties of such committee; and since 1832, another, providing that these duties, *except as provided for in the canons of the General Convention*, may be prescribed by the canons of the respective dioceses.

With regard to the other point, there are historical facts and actions of conventions, of great importance and interest.

In the year 1804, the General Convention passed a canon declaring that no minister who may be hereafter elected into any parish or church shall be considered a regularly admitted and settled parochial minister in any diocese or state, nor shall as such have any vote in the choice of a bishop, until he shall have been inducted according to the office prescribed by this Church.

At the same time the Office of Induction was adopted.

Bishop White states (*Memoirs*, p. 255,) "that the requiring induction as essential to a valid settlement, was perceived to militate against the idea so generally prevalent in many places of dismissing ministers at pleasure. In Maryland, the measure interfered directly with the vestry law. From Carolina, there was a memorial desiring an alteration of the canon."

The vestry act of Maryland was passed in 1798, and gave to the vestry the power of electing a minister, and making a contract with him for his services. It vested him with the right to the

glebe, rents, and other property of the parish, unless he otherwise contracted with the parish.

This act, it must be remembered, had been accepted and acted upon by the Church in that state. Dr. Hawks states other objections made to the canons.*

I have before noticed the action of South Carolina upon this subject. The opposition led to the modification in 1808, declaring that the canons, (this and the 2d canon of 1804,) should not be obligatory upon those states or dioceses with whose usages, laws, or charters, they interfered. The phrase induction was also changed to institution. †

The canon of 1804 presented two points for consideration: 1st, the necessity of induction, to render a minister's settlement in a parish valid for any purpose: 2d, its necessity to render the minister capable of voting for a bishop, or being a member of the General Convention, or even of a Diocesan Convention.

My business at present is with the latter effect and bearing of the canon.‡

And the action of New York is here very important.

In 1802, the convention of that diocese unanimously adopted an office of induction into the rectorship of a parish, and also a canon prescribing the use of the said office at the settlement of every rector. It ran thus: "No minister shall be considered as regularly inducted or settled hereafter as the rector of any parish, except he has been inducted according to the Office of Induction prescribed by this Convention." §

On the 8th of October, 1806, a resolution was moved and seconded, "That the General Convention of the Protestant Episcopal Church in the United States have no authority to prescribe the qualifications necessary to entitle a person to a seat and vote in this Convention. Resolved, That by the Constitution of the Church in this state, every officiating minister, regularly admitted and settled in some church within this state which is in union with this convention, has a right to sit and vote in this convention. Resolved, That the Rev. Mr. S. having been called and inducted as

*Vol. 2, p. 263. These objections spring from old habits, traces of which are to be found at a very early period. In Virginia, under an act of 1682, presentation was to be made by the vestry, and induction by the governor; without the latter the clergyman had no freehold in the living, but was removable at pleasure. Hence, there were few of the clergy who could prevail on their vestries to present them for induction; the general custom, therefore, was to hire the minister from year to year. *Hawks' Contributions*, vol. 1, p. 88.

†Dr. Hawks considers that the terms were synonymous as used by the convention in 1804 and 1808.

‡With regard to the former question, the difficulty seems to have been that the institution tended to confer rights, and extend the period of a minister's connection with the parish, beyond what was agreed upon by the terms of the call.

As the office orginally stood, there may have been ground for this comment, but only from the form of the letter of institution, not in the office itself, to which the wardens representing the parish, were parties.

§Journals N. Y. Convention, pp. 116–119.

rector of the Church of ———, in the manner prescribed by the laws of the state, he is regularly admitted and settled in the said church, and it being within this state, and in union with this convention, the said Mr. S. is entitled to sit and vote in this convention."

It was moved and seconded that the foregoing resolutions be postponed for the purpose of introducing the following:

"*Resolved*, That the ecclesiastical authority possesses the inherent and independent right to determine the qualifications of the members of its several judicatories, or ecclesiastical bodies; and that the Rev. Mr. S., not possessing the qualifications required by the authority of the Church, would not be entitled to a seat in the Convention.

"*Resolved*, That agreeably to the Constitution and canons of this Church, it being necessary that every presbyter should be inducted, according to the office of induction, before he can be considered as a regularly admitted and settled clergyman, a presbyter not so inducted cannot be entitled to a seat in this convention; the Office of Induction, prescribed by the General Convention of the Church, being the ecclesiastical recognition of his rectorship —but in no respects interfering with civil contracts—with the rights of vestries to settle duly qualified clergymen on whatever terms they may deem proper, or with the temporalities of parishes; which temporalities must be vested in the rector, by the vestries, before the bishop can give him authority to claim or enjoy them."

These resolutions, as I am informed by Bishop Onderdonk, were generally understood to have been drawn by Bishop Hobart. No one can refrain from admiring the remarkable precision and legal accuracy of the language.

The question of postponement, for the purpose aforesaid, being taken, was decided in the affirmative, with only a few dissenting voices. And the question being taken on the last named resolutions, severally, they were adopted with the same result.

In 1820, the following preamble and resolution were passed:

"It having been the usage of this diocese, previous to the passage of the 29th canon of the General Convention of 1808, to consider as regularly admitted and settled parochial ministers in the sense of the third article of the Constitution of this Church, all clergymen intrusted with the cure of parishes within the same—Therefore, Resolved, That all such, although not instituted agreeably to the office prescribed in the said 29th canon, shall hereafter be considered members of this convention." Under this resolution, a number of clergymen took their seats as members.

This resolution, at first, appears strange after the action of the diocese in 1802, respecting induction, and that of 1806. A close examination, however, will show some plausible distinctions on which inconsistency may be avoided. At any rate, the vote of New York has given its testimony to two propositions—*first*, that

the General Convention had the unquestioned power to prescribe institution as a qualification of members of a Diocesan Convention, or to entitle them to vote for a bishop; and that the general canon of 1804 superseded the similar canon of the diocese, passed in 1802. *Next*, that the canon did not, and could not interfere with any state law, which regulated the right to the temporalities of a church or parish, and defined what should be a settlement for that purpose. Now, at that time, the Constitution of the diocese of New York directed, that the Convention should be composed of the officiating ministers, being regularly admitted and settled in some church within the state, which was in union with the convention. (Article 3, Cons. 1796.) By the act of the legislature, then and now in force, the wardens and vestrymen constituted under the act, were to call and induct a minister. And upon an application to the convention, the new church having been duly organized under the statutes, and nothing objectionable appearing, was admitted into the convention.*

And this, as I understand the case, was precisely the position of Maryland, under the vestry act and the Constitution of that Church; and of South Carolina, under the statute and constitution in force in 1807, when the proceedings before stated took place. This, I believe, is their position now.

It is this matter which the modification of the canon in 1808 meets. The institution shall not be necessary where it interferes with the laws or usages of a Church in a particular diocese. The Constitutions of Maryland, New York, and South Carolina, prescribe the qualifications of clerical members of a convention. They admit those legally settled in a parish, under a law of the legislature. They do not by law or usage require institution; and the General Convention dispenses in such case, with the requisition.

But all this does not touch or impeach the power of the General Convention to have passed, or now to pass, the canon of 1804; or now to abrogate the qualification of 1808. I have added in the note some particulars which will tend to assist the judgment upon this point.† All that is now considered is the power of

*The first instance I find recorded, (but it is clear there were others before,) is in 1796. (*Journal of that year.*) Two instances of the rejection of such an application are to be found previously, one in 1793, another in 1794.

†In Connecticut, an office of induction was directed to be prepared by the Convention of 1799. In June, 1804, the office, as agreed upon by the bishop and clergy in convocation, was adopted. On the same day, it was resolved, that no clergyman who shall hereafter be settled in this diocese shall be entitled to a seat in the state convention, until he produce a certificate of the bishop, that he has been regularly inducted into some parish, agreeable to the office of induction adopted by this convention. This was before the session of the General Convention, when the canon of 1804 was passed. That session was in September of that year. I do not find any further action upon this subject until 1826, when a canon, (the 14th,) was reported, requiring all clergymen who had been settled within a certain period, and all who should be thereafter settled, to be instituted according to the form set forth by the General Convention. Another canon provided for the case of those clergymen who had been settled for more than a year; dispensing in their case with the institution.

A substitute was offered for these proposed canons, declaring that the 29th

the General Convention in the matter. Under the 30th canon, relating to the election and institution of ministers, I have entered into other bearings of the subject of much consequence, and which Dr. Hawks has made the subject of an able and elaborate comment.

The principles which I have supposed to prevail respecting the power of the General Convention, and the clear reasoning and high authority of the Resolution of New York in 1806, lead to the conclusion that the General Convention possesses the power to prescribe institution as a qualification of the clerical members of a Diocesan Convention.

I enter not into any question respecting the expediency of such a provision, as to which it may deserve remark, that as far as I can ascertain, New Jersey is the only diocese in the Union in which institution is made a necessary qualification of a delegate.

And if the right to pass such a canon as that of 1804, is conceded or established, it will be difficult to find a subject of Church discipline not within the province of the General Convention. I

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and 30th canons of the General Convention, relating to the institution office, shall be hereafter considered as obligatory in this diocese, any former usages or customs to the contrary notwithstanding. The whole subject was referred to a committee, and I do not find any further action upon it.

In New Jersey, by the Constitution of 1811, the members of the Convention are to be, among others, "every priest or presbyter who has been duly instituted rector of any church in this diocese." It appears from the Journals of 1808 and 1810, that letters of institution were issued by the standing committee, there being no bishop.

A striking confirmation of the distinction taken in the New York Resolution of 1806, is to be found in a proceeding in Maryland in 1844, although applied to the convention of the diocese. In the report of the minority in the case of Christ Church, Hagerstown, it is said—"it was suggested before the committee that the various acts of Assembly merely prescribe rules by which civil rights are to be acquired and regulated, but have no operation or influence of themselves in the decision, whether parties who have complied with these legal requisitions shall or shall not be adopted into union with the convention. It is asserted, that whether or not a new congregation shall be received as a member of this convention, is wholly independent of any civil law, but depends exclusively upon the canons of the Church, or upon the discretion of the body. In the general and abstract, the undersigned are not disposed to dissent from these doctrines."

I will close this note with a quotation from the canon of the Scottish Church, which illustrates the principle of the Resolution of New York: "Whereas, It has never been the practive of this Church, nor the wish of her bishops, to interfere, directly or indirectly, with the funds or temporalities of her congregations; it is therefore fully acknowledged that the right of presentation to any chapel within her pale, is vested in those who are appointed to manage its concerns, whether known by the title of trustees, church-wardens, vestrymen, etc., and who by virtue of their office, procure the means of the minister's support; yet to preserve the ancient and regular discipline of an Episcopal community, it is hereby enacted that no presbyter shall take upon himself the pastoral charge of any congregation to which he may be presented, before the deed of presentation be duly accepted by the bishop." The form of the institution is annexed to the canons. It recites that a presentation has been made by the church-wardens, etc., in favor of ———, to the church of ———. That the bishop has sustained the same, and does therefore institute and appoint the said ———, to be pastor or minister of the said congregation, to perform the duties, etc. (Canon 10, Church of Scotland, apud Burns, vol. 4, p. 694.)

submit, (with much deference, upon a point almost untouched,) that upon every question of jurisdiction, the inquiry is not, whether the power has been conferred, but whether it has been denied or restricted.

I have now presented some views respecting the powers of the General Convention, and some examples to explain and enforce them. Others will arise in the course of the discussion of the separate articles of the Constitution, to which I shall now proceed.

APPENDIX G.

OF THE CONSTITUTION.

We are thus brought to the question:—In what attitude did the churches in the several States stand to each other, in entering on this work of once more uniting? The question is one of fact; and the testimony would seem to leave no doubt that in each State, the Church considered itself an integral part of the Church of Christ, perfectly independent, in its government, of any and every branch of the Church in Christendom. Such an opinion would the more readily be adopted, from the fact, that the several states considered themselves in their civil relations, as independent sovereignties, and as such, sought to find a bond of union, first in the articles of confederation, and afterward in the Federal Constitution. Many of those who were employed in laying the foundations of our civil polity, were also aiding by their councils in the establishment of our ecclesiastical system; and hence it is not surprising that there should be found not a few resemblances between them. We present now the facts, that show the sense of independence, entertained by the Churches in the several states.

The Constitution was not finally adopted until October, 1789. Let us examine the steps that preceded it: and first, as to the independent action of the States.

As early as March, 1783, before any general meeting had been held, or any proposition made from any quarter for a union, the Church in Connecticut proceeded to organize itself; and to carry out its purposes, the clergy of that State elected Dr. Seabury their Bishop, and he proceeded to Europe for consecration. This he obtained in November, 1784, at the hands of the Bishops of the Scottish Episcopal Church, and returning to this country, he was recognized by the clergy of Connecticut as their Bishop, in August, 1785.

In August, 1783, Maryland moved in the business of her organization. This also was before any general meeting, or any proposition for such a meeting. The principal work of this Con-

vention in August, was the setting forth "a declaration of certain fundamental rights and liberties of the Protestant Episcopal Church *in Maryland*." The first clause of this declaration places the opinion of the Church in Maryland, as to her independent character, beyond all doubt. It is as follows: "We consider it as the undoubted right of the said Protestant Episcopal Church, in common with other Christian churches under the American revolution, to complete and preserve herself as an entire Church, agreeably to her ancient usages and professions; and to have a full enjoyment and free exercise of those purely splritual powers, which are essential to the being of every Church or congregation of the faithful, and which, being derived from Christ and his apostles, are to be maintained independent of every foreign or other jurisdiction, so far as may be consistent with the civil rights of society." In June, 1784, Maryland repeated her declaration, and acted on her independent principles.

In May, 1784, Pennsylvania acted, and appointed "a standing committee of the Episcopal Church *in this State*," and authorized them "to correspond and confer with representatives from *the Episcopal Church in the other States*, or any of them: and assist in framing an ecclesiastical government." This was the first step taken toward an union of the churches in the States generally. At this meeting also Pennsylvania set forth her fundamental principles.

In September, 1784, Massachusetts acted as an independent Church, in framing certain articles, in which the right of each State *separately* to apply abroad for the episcopate, is distinctly asserted. This also was before any general meeting of the churches from the States.

The standing committee appointed by Pennsylvania, did correspond and confer with Churchmen in the other States; so that on the 6th of October, 1784, the first *general* meeting of Episcopalians, to adopt measures for an union, was held in New York. At this meeting, representatives were present from Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland. From Virginia, Dr. Griffith was present by permission. He could not sit as a delegate, because Virginia (a State which, through its whole ecclesiastical history since the revolution, has always asserted its independent diocesan rights,) had forbidden by law her clergy to interfere in making changes in the order, government, worship, or doctrine of the Church. Virginia asserted the entire independence of the Church within her limits of all control but her own.

At this meeting for conference (it was nothing more,) but one opinion prevailed, as to the light in which the Churches in the several states were to be viewed. It was recommendad to the states represented, and proposed to those not represented, to organize or associate "themselves in the states to which they respectively belong, agreeably to such rules *as they shall think proper:*" and when this was done, not before, they further recommended

and proposed, that all "should unite in a general ecclesiastical constitution." As the basis of this Constitution, they proposed certain "fundamental principles," in which the independent character of the Church in each State, is fully recognized. They also invited the churches in the several states to send delegates to a future general meeting, for the purpose of accomplishing an union. Pursuant to this recommendation and proposal, some of the other States acted.

Early in 1785, the clergy of South Carolina met, and agreed to send delegates to the next general meeting, but in complying with the invitation to co-operate in the measures necessary to effect a general union, they accompanied their compliance with an unequivocal proof of their sense of the independence of the South Carolina Church, for they annexed to it an understanding that *no bishop* was to be settled in that State.

In the summer of 1785, New York and New Jersey appointed their respective delegates, and in September of that year the general meeting was held.

At this meeting, the proceedings were such as show that the churches in the several States were deemed independent. Thus the first vote of the assembled body was taken *by States*, and the principle was formally recognized of voting, not individually, but by States. A committee was appointed, consisting of one clergyman and one layman, from each State represented, to prepare and report an ecclesiastical constitution, "for the Protestant Episcopal Church in the United States of America:" and this is the second instance, in which the whole of the Episcopal churches in this country, are spoken of collectively as one body, or religious community, the first being in the fundamental articles proposed in October, 1784.

The instrument then proposed and adopted, in conformity with the "fundamental principles," before propounded at the first meeting, is the basis of our present Constitution, and repeatedly speaks of the "church in each State," and in its final article, provides that "this general ecclesiastical constitution, when ratified by the Church, in the different States, shall be considered as fundamental, and shall be unalterable by the Convention of the Church in any State." This general constitution, however, as Bishop White informs us, did not form a bond of union among the churches throughout the land, for it stood upon recommendation only; and the real and only bond, by which all the Episcopal congregations in the country were held together, until 1789, was in the common recognition of the thirty-nine articles.

It would seem, then, that the churches of the several States came together as independent churches duly organized, and so considered each other, for the purpose of forming some bond whereby they might he held together as one religious community throughout the whole United States.

We have said the churches of the several States convened: from this remark, however, Connecticut must be excepted, for she

had pursued her own course as an independent part of the Christion Church; having sought, (as she had a right to do,) the episcopate for herself; and after obtaining it, she furnished one of the plainest proofs of the general sense of American Episcopalians to the independent character of the churches in the States: for it was after negotiation with the General Convention in 1789, that Connecticut came into union as a Church fully and duly organized with a bishop, priests, and deacons.

We next inquire what was the mode by which they proposed to accomplish this desirable end? Did they merely purpose to establish a *concordat* or mutual and fraternal acknowledgment of each other, among these independent churches? Did they mean to make nothing more than a league between them, thus forming them into a simple confederacy? They went far beyond this: they designed to do so, and most wisely. What was it that the revolution had destroyed? Not unity, but union. They had been but one church, their wish was to return to union, and to supply the bond for that purpose, of which the casualties of war had deprived them. They declared that they came together "in order to *unite*," and placed this declaration as a preamble to the very instrument, by which they sought to accomplish their end. To unite in what? They answer for themselves;—"in a constitution of ecclesiastical government:" that is, in a system of polity to be of general force and application. Indeed, there was nothing else in which they could unite, for in all other matters they were already one. It is an error of dangerous tendency, to the harmony and stability of the Protestant Episcopal Church in the United States, to take any other view of the plans and purposes of those who met to form her Constitution.

But an union between parties perfectly independent may be formed upon various terms and conditions. Every independent right may be surrendered, or some only may be given up: so, too, a greater or less equivalent may be given for such surrender: we next ask, therefore, what were the terms of the union agreed on? In other words, what is the true meaning of the Constitution? The instrument itself can, of course, be expected to do no more than present certain great general principles. It cannot provide by express declaration for each case specifically, for this would make it rather a statute book than a Constitution; whereas, its true purpose is to furnish certain guides to action, in the future formation of a statute book. Its interpretation, therefore, should be liberal, and rather according to its general spirit, than to its strict letter, when the rigor of literal interpretation would tend to defeat the great end of *union*, contemplated by its framers. Let it never be lost sight of, that in all such matters, as fairly arise under this general constitution, the polar star in interpretation is, that it was made for the purpose of binding us all to "walk by the same rule." And yet it must also be remembered, that no liberality of interpretation should so stretch its powers, as virtually to destroy those diocesan rights, that are as essential to our well-

being, as union itself. The experience of our civil history, shows that few points are more difficult of adjustment, than the respective rights and powers of the State and general governments. A similar difficulty, to some extent, exists in the polity adopted by the Protestant Episcopal Church in the United States: for the analogy between the two forms of government is, in some particulars, very close, and was made so intentionally. In the government of the United States an ultimate arbiter in intepretation is provided in the Supreme Court. In the Church, however, we possess no such advantage, for we have no tribunal that can authoritatively declare to the whole Church what the meaning of the Constitution is. The House of Bishops may indeed express an opinion if it pleases, and the churches generally respect it, as they should do; but such opinion is neither law, nor authorized judicial exposition of law. Hitherto there has been practically but little difficulty, but it is easy to foresee, as our numbers increase, the certainty of future conflict. It is difficult to lay down a general principle on this delicate subject, of the respective rights of the Church at large, and the churches in the several dioceses. What is desirable is, on the one hand, to promote such an union as is compatible with diocesan independency; and on the other, so to uphold the just rights of the latter, as to prevent their merger in the former.

What then did the several dioceses retain under the Constitution? They retained very clearly the following rights:

1. To organize as a distinct Church within the territorial limits of each State, district, or diocese.

2. To elect their own ecclesiastical head.

3. To hold the sole and exclusive jurisdiction in the trial of offending clergymen within their respective limits; and to prescribe the mode of trial.

4. To hold their own ecclesiastical legislatures and make all such laws as they might deem necessary for their well-being, provided they did not defeat the purpose of union, by contravening the Constitution, and constitutional enactments of the Church general.

5. To have an equal voice in the general legislation of the Church at large.

6. To have their respective bishops subject to no other prelate, and to be interfered with in the discharge of their duty by no other bishop; but in all things belonging to their office, to be equal to every other bishop in the Church.

7. To have their several bishops of right entitled to a voice in the councils of the Church, not as representatives of dioceses, but individually as Christian bishops.

What did they surrender? As we apprehend, the following things:

1. Such an exercise of independency as would permit them to

withdraw from the union at their own pleasure, and without the assent of the other dioceses.

2. They surrendered the right of having the bishop whom they might elect, consecrated without the assent of the Church at large.

3, They surrendered the right of sole and unrestricted legislation for themselves, in the dioceses alone, but consented that part of their laws should be made in a general legislature of which they were members.

4. They surrendered the right of framing their own liturgy, and agreed through all the dioceses to use the same, when all should have ratified it.

5. They surrendered the right of making separately any alteration in the great compact or charter of union.

These things, as it seems to us, were done by the proposed Constitution of 1785. But this instrument was not binding on the Church as its Constitution, for it was yet to be ratified by the Conventions of the several States. It was accordingly sent to them for that purpose, and much diversity of opinion prevailed in the dioceses concerning its adoption. In June, 1786, a Convention was held of delegates from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina, and the Constitution of the previous year underwent revision and alteration in that body. It still, however, remained to be ratified by the several State Conventions, and it was accordingly recommended to them, that they should authorize and empower their deputies to the first General Convention, meeting after a bishop or bishops had been consecrated, to confirm and ratify a General Constitution. They did so, and the first Convention after obtaining the episcopate was held in July, 1789. At this meeting the delegates declared themselves authorized by their respective Conventions, to ratify a Constitution; and it was referred to a committee of one from each State, to consider the Constitution proposed in 1786. It underwent much discussion, and finally, on the 8th of August, 1789, the Constitution was formally adopted, and became the fundamental law of the Protestant Episcopal Church in the United States. The work commenced at the first general meeting of Episcopalians in October, 1784, was thus consummated in August, 1789, and during the intervening period there was no bond holding the churches on this continent together, but the bond of a common faith.

APPENDIX D.

EPISCOPACY.

Is Episcopacy essential to the being of a Church?

Since we maintain that the institution of Episcopal government is of divine authority, it might seem to follow that it is essential to the being of a Church—that there can be no Church without Episcopacy. But this does not appear to be a necessary consequence. A Church may be a true Church, and yet be imperfect or unsound, just as a man may be a real man, whose constitution is impaired, or whose body is mutilated. There have, indeed, been some strange applications of this analogy, which, considering the bishop as the head of the Church, likened the case of a Church without a bishop, to a man without a head. But this is truly a very wild comparison. A bishop may be called, *in a certain sense*, the head of a Church *within a particular diocese;* although even this phraseology is better avoided, because it is exceedingly liable to misrepresentation. But in no possible sense can a bishop be called the head of the *Church at large*, nor *in the highest sense*, the head of any part of it 'CHRIST IS THE HEAD OF THE CHURCH' —'THE BISHOP AND SHEPHERD OF OUR SOULS.' All other bishops are members of his body, governing and leading the rest indeed, but always in subordination and obedience to him, who is the 'ONE LAW-GIVER—able to save and to destroy.'

Hence, we deny, in opposition to our Roman Catholic brethren, that there should be any such thing as a universal bishop—a bishop of bishops—a vicar of Christ on earth. This is a distinguished and well known tenet of popery, which all Protestant Episcopalians reject. The great Redeemer has, indeed, re-ascended to the throne of his glory, his earthly ministry has ended; but he is still our 'High Priest,' 'who ever liveth to make intercession for us;' (Heb. 7: 35,) he has not left his Church, nor placed it under the rule of any vicar-general. When he appointed the apostles to be his representatives by saying, 'as my father hath sent me, even so I send you,' he spoke to them all, and not to any single individual. They had no Prince but Christ amongst them, neither had the Church of the apostles' planting. Consequently, the

bishops of the Church are *many*, equal in official rank and authority. The Head of the Church can be but *One*.

Hence, also, arises the necessity of general councils, whenever any question occurs in which the decision of the whole body is required. But when the bishops have assembled in those councils, their whole object has been to discover the will of the Head, even Christ; and their decrees have always been promulgated upon the acknowledged principle, that they were according to the mind of the Lord, being the interpretation of his own word, under the influence of his own Spirit.

If, therefore, the bishop of a diocese should die, the Church of that diocese is not to be compared to a man without a head, during the interregnum which must take place before the consecration of a successor. And if that diocese should have to wait for many years before the defect is supplied, it is not deprived of its place in the body of Christ. And if, owing to any circumstances of necessity, it should never have the benefits of that apostolic office again, but should find itself obliged, like a mutilated man, to make shift with its other members, still it has not lost its head, nor has it ceased to be a part of the body of Christ,—THE CHURCH CATHOLIC, OR UNIVERSAL.

In order to set this important matter in as clear a light as I can, within the prescribed limits of this brief treatise, I shall close this chapter with the definition of the Church set forth by that celebrated man, who maintained with so much force, the divine institution of Episcopacy. I shall then discuss, succinctly, the difficulties supposed to encumber this question.

'Church,' saith Hooker, (Eccles. Polity, Book 5, § 68, p. 17 of 2d vol. London Ed. of A. D. 1825,) 'is a word which art hath devised, thereby to sever and distinguish that society of men which professeth the true religion, from the rest which profess it not. There have been in the world, from the very first foundation thereof, but three religions Paganism, which lived in the blindness of corrupt and depraved nature; Judaism, embracing the law which reformed heathenish impieties, and taught salvation to be looked for through One whom God in the last days would send and exalt to be Lord of all; finally, Christian belief, which yieldeth obedience to the Gospel of Jesus Christ, and acknowledgeth him the Saviour whom God did promise. Seeing then that the Church is a name, which art hath given to *professors of true religion;* as they that will define a man, are to pass by those qualities wherein one man doth excel another, and to take only those *essential* properties, whereby man doth differ from creatures of other kinds, so he that will teach what the Church is, shall never rightly perform the work whereabout he goeth, till in matter of religion he touch that difference which severeth the Church's religion from theirs who are not the Church. Religion being therefore a matter partly of contemplation, partly of action; we must define the Church, which is a religious Society, by such differences as do perfectly explain the essence of such things; that is to say, by the object or matter

whereabout the contemplation and actions of the Church are prop erly conversant. For so all knowledge and all virtues are defined. Wherefore, because the only object which separateth ours from other Religions, is Jesus Christ, in whom none but the Church doth believe, and whom none but the Church doth worship; we find that accordingly the Apostles do everywhere distinguish hereby the Church from Infidels and from Jews, *accounting them, which call upon the name of our Lord Jesus Christ, to be* HIS CHURCH. If we go lower, we shall but add unto this certain casual and variable accidents, which are not properly *of the being*, but make only for the *happier and better being* of the the Church of God, either in deed, or in men's opinions and conceits. This is the error of all Popish definitions that hitherto have been brought. They define not the Church by that which the Church *essentially* is, but by that wherein they imagine their own *more perfect than the rest are.*'

Again, ib. p. 19. 'That which separateth therefore utterly,' continues Hooker, 'that which cutteth off clean from the visible Church of Christ, is plain apostacy, direct denial, utter rejection of the *whole Christian faith*, as far as the same is professedly different from Infidelity. *Heretics*, as touching those points of doctrine wherein they fail; *Schismatics*, as touching the quarrels for which or the duties wherein they divide themselves from their brethren: *loose, licentious, and wicked persons, as touching* their several offenses or crimes, have all forsaken the true Church of God: the Church which is sound and sincere in the doctrine which they corrupt; the Church that keepeth the bond of unity which they violate; the Church that walketh in the laws of righteousness which they transgress; this very true Church of Christ they have left, *howbeit not altogether left*, nor forsaken simply *the Church;* upon the main foundation whereof *they continue built, notwithstanding these breaches whereby they are rent at the top asunder.*'

And to show his meaning yet more clearly, he saith again, Book 3, § 1, (ib. 1 vol., p. 276) 'We must acknowledge even *heretics themselves* to be, though a maimed part, yet a part of the visible Church.' 'Heretics are not utterly cut off from the visible Church of Christ. If the fathers do anywhere, as oftentimes they do, make the true visible Church of Christ and heretical companies opposite; they are to be construed as separating heretics, not altogether from the company of believers, but from the fellowship of sound believers. For where professed unbelief is, there can be no visible Church of Christ; there may be where sound belief wanteth. Infidels being clean without the Church, deny directly, and utterly reject, the very principles of Christianity; which *heretics embrace*, and err *only by misconstructions.*'

From all which it is manifest, that the visible Church Universal or Catholic, in the opinion of Hooker, includes all who PROFESS TO BELIEVE IN THE LORD JESUS CHRIST, whatever the defects or corruptions of their respective systems may otherwise be.

How does this definition quadrate with the doctrine of our articles?

The nineteenth article of the thirty-nine, defines the Church in the following terms:

'The visible Church of Christ is a congregation of faithful mén, in which the pure word of God is preached, and the sacraments be duly ministered according to Christ's ordinance, in all those things that of necessity are requisite to the same.'

And the twenty-third article, on the calling of the ministry, declares that 'It is not lawful for any man to take upon him the office of public preaching, nor ministering the sacraments in the congregation, before he be lawfully called, and sent to execute the same. And those we ought to judge lawfully called and sent, which be chosen and called to this work by men who have public authority given unto them in the congregation, to call and send ministers into the Lord's vineyard.

Now, here we have the liberal construction of our reformers, upon the Churches in general. But when we come to the ordinal, in which the system is set forth for the Church of England, we find a much more precise, and primitive doctrine.

'It is evident,' saith the ordinal, 'unto all men diligently reading holy Scripture and ancient authors, that from the apostle's time there have been these orders of ministers in Christ's Church, —bishops, priests, and deacons. Which officers were evermore had in such reverend estimation, that no man might presume to execute any of them, except he were first called, tried, examined, and known to have such qualities as are requisite for the same; and also by public prayer, with imposition of hands, were approved and admitted thereunto by lawful authority. And, therefore, to the intent that these orders may be continued, and reverently used and esteemed in this Church, no man shall be accounted or taken to be a lawful bishop, priest, or deacon, *in this Church*, or suffered to execute any of the said functions, except he be called, tried, examined, and admitted thereunto, according to the form hereafter following, or hath had Episcopal consecration or ordination.'

The general and cautious language employed in the two foregoing articles, and the precise, full, and positive doctrine of the rule last quoted, must strike every impartial reader, as presenting a remarkable contrast. The explanation, however, is, to my mind, simple and perfectly satisfactory. The reformers of the Church of England well knew that the Episcopal system was the only one which could fairly claim the distinction of divine authority, being the only one established under the authority of the apostles in the Church of Christ. And, therefore, for themselves and their particular branch of the reformation, since the good providence of God had put it in their power, they were determined to preserve it unimpaired, and not to allow it to be troubled by any invasion. But they had before their eyes the continental Churches of France, Germany, Switzerland, and Holland, which had not the means of

perpetuating this primitive system, and which had been constrained by the necessity of their local situation to adopt a novel and defective plan for their ministry. Believing that this defect, in such peculiar circumstances, was allowable, the framers of our articles took the broadest latitude with respect to the lawfulness of the course pursued by the other reformers; and thus placed on record a beautiful memorial of a truly Christian spirit, excusing with the kindliest allowance, the very deficiencies of their brethren, while they asserted the strictest and most uncompromising principle for themselves.*

In order to ascertain how far this construction is sanctioned by the most eminent writers, let us examine the sentiments of Hooker, Chillingworth, and Burnet. I commence with Burnet, although the last in the order of chronology, because his well known book on the thirty-nine articles was written long after the time, when any peculiar bias towards the Continental Churches, could be supected. Besides which, it comes as near the authority of the Church as any production of an individual has ever done; since he tells us, in his preface, that he was induced to undertake the work by the Archbishop of Canterbury, that it was read with great care by many of the other bishops and several learned divines, and that it was published with the strongest expressions of their approbation.

Speaking of the twenty-third article, Bishop Burnet says, (Lond. Ed. of 1827, p. 257.) 'I come in the next place to consider the second part of this article, which is the definition here given of those that are lawfully called and set; this is put in very general words, far from that magisterial stiffness in which some have taken upon them to dictate in this matter. The article does not resolve this into any particular constitution, but leaves the matter open and at large for such accidents as had happened, and such as might still happen. They who drew it had the state of the several Churches before their eyes that had been differently reformed; and although their own had been less forced to go out of the beaten track than any other, yet they knew that all things among themselves had not gone according to those rules that ought to be

*That this was their design in framing the nineteenth and twenty-third articles as they have done, will perhaps be more evident to some readers, upon a comparison with the definitions of the Church, set forth by Calvin and Luther, which I subjoin for their greater satisfaction.

'Quod dicimus, says Calvin, Instit. lib. 4. Cap. 1. § 12, 'purum verbi ministerium et purum in celebrandis sacramentis ritum, idoneum esse pignus et arrhabonem, ut tuto possimus societatem in qua utrunque extiterit, pro Ecclesia amplexari.'

In the seventh article of the Augsburg Confession, the definition of the Church is very similar to our nineteenth Art. See Luther's works, 4. vol. p. 196.

'Item docent, quod una sancta ecclesia perpetuo mansura sit. Est autem ecclesia congregatio sanctorum, in qua evangelium recte docetur, et recte administrantur sacramenta. Et ad veram unitatem Ecclesiæ, satis est consentire de doctrina Evangelii et admistratione sacramentorum.

sacred in regular times: necessity has no law, and is a law unto itself.†

And a little further on, (p. 258,) he observes, 'If a company of Christians find the public worship where they live to be so defiled, that they cannot with a good conscience join in it, and if they do not know of any place to which they can conveniently go, where they may worship God purely, and in a regular way; if, I say, such a body, finding some that have been ordained, though to the lower functions, should submit itself entirely to their conduct, or finding none of those, should by a common consent desire some of their own number to minister to them in holy things, and should upon that beginning grow up to a regulated constitution, though we are very sure that this is quite out of all rule, and could not be done without *a very great sin*, unless the necessity were *great and apparent;* yet if the necessity is real and not feigned, this is not condemned nor annulled by the article; for when this grows to a constitution, and when it was begun by the consent of a body, who are supposed to have authority in such an extraordinary case, whatever some hotter spirits have thought of this, since that time, yet we are very sure, that *not only those who penned the articles, but the body of this Church for about half an age after*, did, notwithstanding those irregularities, acknowledge the foreign Churches so constituted, to be *true Churches* as to all the *essentials* of a Church; though they had been at first irregularly formed, and continued still to be in an imperfect state. And, therefore, the general words in which this part of the article is framed, seem to have been designed *on purpose* not to exclude them.'

Hooker, speaking on the same point, although without any particular reference to the articles, saith (Eccl. Pol. B. 7. § 14, Lond. Ed. of 1825, 2. Vol. p. 304.) 'There may be sometimes very just and sufficient reasons to allow ordination made without a bishop.' 'Men may be extraordinarily, yet allowably, two ways admitted unto spiritual functions in the Church. One is when God himself doth of himself raise up any, whose labor he useth without requiring that men should authorize them; but then he doth ratify their calling by manifest signs and tokens himself from heaven.' 'Another extraordinary kind of vocation is, when the *exigence of necessity* doth constrain to leave the usual ways of the Church, which otherwise we would willingly keep: where the Church must needs have some ordained, and *neither hath*, nor *can have possibly*, a bishop to ordain; in case of such necessity, the

†This admission of imperfection in the system of the Church of England, may perhaps be fairly understood to apply to those unavoidable defects which arose from her dependence on the state, such as the bishops being appointed by the king, instead of being elected by the clergy and people, etc. There has been, in truth, a far more perfect exhibition of Church and state in the Puritan days of New England, than has ever been seen in old England, since the reformation. And as the matter now stands, and has stood with them since that time, the true title of the union would perhaps be better expressed by reversing the order of the words. In sober truth, it seems not to be *Church and State*, so much as *State and Church*.

ordinary institution of God, hath given oftentimes, and may give place. And, therefore, we are not, simply without exception, to urge a lineal descent of power from the apostles, by continued succession of bishops in every effectual ordination. *These cases of inevitable necessity excepted*, none may ordain but only bishops.'

And again, the same author, speaking of the Presbyterian Churches (B. 3. § 2. vol. 1, p. 330,) with respect to the same point of necessity, uses the following words: 'In which respect,' saith he, 'for mine own part, although I see that certain reformed Churches, the Scottish especially and French, have not that which best agreeth with the sacred Scriptures, I mean the government that is by bishops, inasmuch as both these Churches are fallen under a different kind of regimen; which to remedy, it is for the one altogether too late, and too soon for the other during their present affliction and trouble: yet this their defect and imperfection I had rather lament in such a case than exaggerate; considering that men oftentimes, without any fault of their own, may be driven to want that kind of polity or regimen which is the best; and to content themselves with that which either the irremediable error of former times, or the necessity of the present hath cast upon them.'

Once more, Hooker, reconciling Jerome to himself, by a paraphrase on the passage, where he speaks of the superiority of bishops being the result rather of the custom of the Church than of any express law of God, uses this language: (B. 7. ib. 2. vol. 252.) 'Presbyters must not grudge to continue subject unto their bishops, unless they will proudly oppose themselves against that which God himself ordained by his apostles, and the whole Church of Christ approveth and judgeth most convenient. On the other side, bishops, although they may avouch, with conformity of truth, that their authority had thus descended even from the very apostles themselves, yet the absolute and everlasting continuance of it they cannot say that any commandment of the Lord doth enjoin; and therefore must acknowledge that the Church hath power by universal consent upon urgent cause to take away, if thereunto she be constrained through the proud, tyrannical, and unreformable dealings of her bishops.' 'Let this consideration be a bridle unto them, let it teach them not to disdain the advice of their presbyters, but to use their authority with so much the greater humility and moderation, as a sword which the Church hath power to take from them.'

Chillingworth, although a staunch supporter of Episcopacy, is quite as indulgent towards the defective Churches of the reformation; for he denies that Luther and the other reformers were schismatics for leaving the Church of Rome. 'Protestants,' saith he, (vol. 2, p. 204) are peremptory and unanimous in denying that they are truly schismatics who leave the communion of the visible Church if corrupted; especially if the case be so (and Luther's was so) that they must either leave her communion, or of necessity communicate with her in her corruptions.'

Again, he questions whether the present generation of separatists could be called schismatical, even if their forefathers had been so. 'You say,' saith Chillingworth, addressing his Roman Catholic antagonist, (see Chil. works, Lond. Ed. of 1820, vol. 2, p. 189,) 'that supposing Luther, and they which did first separate from the Roman Church, were guilty of schism, it is certainly consequent, that all who persist in this division, must be so likewise; which is not so certain as you pretend. For they which alter, without necessary cause, the present government of any state, civil or ecclesiastical, do commit a great fault; whereof notwithstanding they may be innocent, who continue this alteration, and to the utmost of their power oppose a change, though to the former state, when continuance of time hath once settled the present.'

Again, he combats the accusation that Luther forsook the visible Church when he left the Church of Rome. 'Properly speaking,' saith he, (ib. p. 226,) 'it is not true, that Luther and his followers forsook the whole corrupted Church or the external communion of it: but only that he forsook that part of it which was corrupted and still would be so; and forsook not, but only reformed another part, which part they themselves were; and I suppose you will not go about to persuade us, that they forsook themselves or their communion. And if you urge, that they joined themselves to no other part, therefore they separated from the whole; I say it follows not, inasmuch as themselves were a part of it, and still continued so: and therefore could no more separate from the whole than from themselves.'

Once more, Chillingworth gives an explanation which applies to our nineteenth article, and is worthy of notice. 'Protestants,' saith he, (ib. p. 205,) 'do not make the true preaching of the word and the due administration of the sacraments, the notes of THE visible Church, but only of A visible Church; now these you know are very different things; the former signifying the Church Catholic, or the whole Church; the latter, a particular Church, or a part of the Catholic.' 'And if it be said (ib. 197,) that preaching of the word and administration of the sacraments cannot but make a Church visible, and these are inseparable notes of the Church—I answer, that they are so far inseparable, that wheresoever they are, there a Church is; but not so, but that in some cases there may be a Church, where these are not.' In pursuance of which idea, Chillingworth strongly insists, that the true Church may exist even where it is invisible, likening it to the case of Israel when Elijah thought himself alone, but God told him that there were yet seven thousand in Israel who had not 'bowed the knee to Baal.' (ib. 210.) 'Hence,' saith he, (ib, 214,) 'Protestants do not hold the failing of the Church from its being, but only from its visibility; which, if you conceive all one, then must you conceive that the stars fail every day, and the sun every night.'*

*This opinion of Chillingworth may be admitted if understood of the uncorrupted part of the Church; but of the Church as a whole, Hooker says,

Lastly, Chillingworth, (ib. p. 253,) sums up the differences amongst the various branches of the reformation in these terms: 'Some,' saith he, 'taking their direction in this work of reformation only from the Scriptures,† others from the writings of the fathers and the decrees of councils of the first five ages, certainly it is no great marvel that there was, as you say, disagreement between them, in the particulars of their reformation; nay, morally speaking, it was impossible it should be otherwise. Yet let me tell you, the difference between them, (especially in comparison of your Church and religion) is not the difference between good and bad; but between good and better: and they did best that followed Scripture, interpreted by catholic written tradition; which rule the reformers of the Church of England proposed to themselves to follow.'

Now, from these extracts there are several points sufficiently manifest:

1. That the want of the Episcopal government is a defect, and a serious defect; but that the Churches which have is not, may nevertheless, be true Churches so far as regards the *essentials* of a Church.

2. That the plea of *necessity*, if real and not feigned, takes away all blame from the Churches thus constituted, and renders their ordinations lawful *for them and in their circumstances*.

3. That this deviation from Scriptural rule and primitive practice, if wantonly made, without real necessity, exposes its authors to the guilt of schism, but does not thereby deprive them of their claim to be a portion of the Catholic or universal Church.

4. That even heretics, though a maimed part, are yet a part of the Church universal.

5. That the true uncorrupt Church may exist invisibly under certain circumstances, such as those of the faithful Israelites in the days of Elijah, without the enjoyment of either preaching or sacraments.

And the result brings us precisely to the definition of Hooker, which includes within the pale of the Catholic or universal Church, all who PROFESS TO ACKNOWLEDGE THE LORD JESUS CHRIST, whether sound or unsound, perfect or imperfect, maimed or whole, in any other respect whatever.

* * * * * * * *

Ecc. Pol. B. 3. 1. vol. p. 273, 'God hath had ever, and ever shall have, some Church visible, upon earth. When the people of God worshipped the calf in the wilderness; when they adored the brazen serpent; when they served the Gods of the nations; when they bowed their knees to Baal—the sheep of his visible flock they continued.' The reason is the same with that assigned in pages 322, 323; because Israel, at none of the periods of their history, openly cast off the worship of the true God, but united the profession of believing in him, with the following of idols, as many substantially do in our own day.

†Chillingworth should rather have said, from a *part of the Scripture:* for which see more particularly the 5th chapter.

In the peculiar position occupied by the Protestant Episcopal Church of the United States, there are many questions of great interest likely to arise, in the settlement of which there is some danger of collision, unless there be a steadfast reference made to fundamental principles.

The first and most important of these questions is the following:

From what source are we to derive our ideas of the powers and character of the bishops and clergy?

To this the answer, as it seems to me, is a matter of course; so much so, that I should never have conceived that it could be a question amongst Episcopalians, if I had not heard and seen a principle advocated, which maintains, that the frame of our ecclesiastical polity, and the measure of Episcopal powers, must be taken from the Constitution and canons of the American Church; and that bishops and clergy have no inherent and official rights, until some express provision of our own code bestows them.

If the Episcopal Church were a modern invention, coined from the fancies of some human brain, and first starting into being with the American revolution, there would be some sense and propriety in the above opinion But as it claims affinity with the primitive Church, rests its foundation on the divine will, proves its principles by the very language of Scripture, and draws its descent directly from the apostles through the channel of the Church of England, the theory above described must be characterized as a pure absurdity. Nevertheless, as it is a kind of absurdity which is congenial, in many respects, with the spirit of the age, and the prevailing temper of our country, it may meet with acceptance from some who have not yet given to the subject any serious consideration; and therefore I shall devote a portion of this dissertation to tbe exposition of the true principles of our ecclesiastical system.

I commence by the proposition, that the Episcopal Church is maintained by all her members to be the Church of *apostolic* institution, characterized by the order of bishops, who exercise the powers of ordination and government which were peculiar to the apostles; on which account they are considered the successors of the apostles, and their Church is in this particular, an apostolic Church.

Hence, the preface to the ordinal declares the office of bishop to have been from the apostles' times, and that this fact is, 'evident to all men diligently reading Scripture and ancient authors.'

Again, in the consecration service for bishops, we meet with the following recognition of the principle:

'Brother,' saith the presiding bishop, addressing the person to be consecrated, 'as the *holy Scripture* and the *ancient canons* command that we should not be hasty in laying on hands and admitting any person to *government* in the Church of Christ, which he

hath purchased at no less price than the effusion of his own blood; before we admit you to this administration we will examine you in certain articles, to the end that the congregation present may have a trial, and bear witness how you are minded to behave yourself in the Church of God.'

In the third question following this introduction, the presiding bishop asks the candidate, 'Are you ready, with all faithful diligence, to *banish and drive away* from the Church all erroneous and strange doctrines contrary to God's word; and both privately and openly to call upon and encourage others to do the same?

In the fifth question, he is asked whether he 'will diligently exercise such discipline, as by the authority of God's word, and by the order of this Church,' is committed to him?

In the prayer which precedes the imposition of hands, reference is made to the divine institution of the ministry, and the Almighty is besought to grant, that the person to be consecrated may '*use the authority given* him, not to destruction, but to salvation, not to hurt, but to help.'

And in the act of consecration it is said to him, 'Receive the Holy Ghost for the office and work of a bishop, in the Church of God,' and the very words of St. Paul's epistle to Timothy, the first bishop of Ephesus, are interwoven with this and several other parts of the service.

There are many points of similarity in the questions put in the ordination of priests, but with this difference, that here there is nothing bestowed which resembles the power to ordain and govern, and there is an express promise of subordination exacted in these words:

'Will you reverently obey your bishop, and other chief ministers, who, according to the canons of the Church, may have the *charge and government over you;* following with a glad mind and will their godly admonitions, and submitting yourselves to their godly judgment?'

All the above passages are retained from the ordinal of the Church of England; they were a part of the ecclesiastical system of our Church, previous to the revolution; the colonies were at that time under the spiritual jurisdiction of the bishop of London, and whatever construction was then put upon the office of a bishop and the promise of obedience to him in this country, continues to be the law of our Church to this day; those points alone excepted, in which our American Church has thought fit to alter it by some new provision.

This is the well known principle of our civil law. Hence, in almost every part of the union, there are parts of the English Common and Statute law in force to the present hour; all that had been received and acted upon in this country previous to the revolution, being considered as a part of our system, in no way affected by the separation from the mother country.* And in all the fed-

*See the case of Terrett et al. vs. Taylor et al. 9 Cranch, 43.

eral Courts, the whole science of jurisprudence is still interpreted according to the English rule, and their law books are read as authority. Marvelous it is, surely, that the laws of the States should keep their ancient connexion with so much constancy; while yet the principles of the Church must be cut loose from all their ties, and be sent adrift to discover new interpretations and definitions of old terms, as if the phrases bishop, presbyter, and ordination vows, had suddenly lost all meaning, and ceased to signify, at the revolution, what they had always signified before.

By the liberality of the British government, after peace was declared, an act of Parliament was passed, authorizing the consecration of three bishops for the Church in this country. This was done upon the express assurance given by our clergy in convention, that the principles of the Church of England should be faithfully retained. A few extracts from the address of the Convention of 1785 to the English prelates, (Bp. White's Memoirs, p. 318,) will prove this assertion clearly:

'When it pleased the Supreme Ruler of the universe, that this part of the British empire should be free, sovereign, and independent,' says this address, 'it became the most important concern of the members of our communion to provide for its continuance. And while, in accomplishing this, they kept in view that wise and liberal part of the system of the Church of England, which excludes as well the claiming as the acknowledging of such spiritual subjection as may be inconsistent with the civil duties of her children; it was nevertheless their earnest desire and resolution to retain the venerable form of episcopal government, handed down to them, as they conceived, from the time of the apostles; and endeared to them by the remembrance of the holy bishops of the primitive Church, of the blessed martyrs who reformed the doctrine and worship of the Church of England, and of the many pious prelates who have adorned that Church in every succeeding age.'

'The petition which we offer to your venerable body, is—(p. 350,) that from a tender regard to the religious interests of thousands in this rising empire, professing the same religious principles with the Church of England, you will be pleased to confer the episcopal character on such persons as shall be recommended by this Church in the several States here represented; full satisfaction being given of the sufficiency of the persons recommended, and of its being the intention of the general body of the Episcopalians in the said States respectively, to receive them in the quality of bishops.'

Observing upon (p. 321) the past relations of the American Church with the Church of England, the address uses this language, 'The archbishops of Canterbury were not prevented, even by the weighty concerns of their high station, from attending to the interests of this distant branch of the Church under their care. The bishops of London were our diocesans: and the uninterrupted,

although voluntary submission of our congregations, will remain a perpetual proof of their mild and paternal government.'

Among the resolutions passed at the Convention from which the above address emanated, the fourth (ib. p. 353,) is direct upon the point most important to a proper understanding of this subject. It is as follows:

'Ordered, Fourthly, That it be further recommended to the different conventions, that they pay especial attention to the making it appear to their lordships, (the prelates of the Church of England,) that the persons who shall be sent to them for consecration are desired in the character of bishops, as well by the laity as by the clergy of this Church, in the said States respectively; and that they will be received by them in that character on their return.'

And in the answer returned by the English prelates to the address, we find a farther evidence in the fear entertained that the principles of the Church might be changed from the primitive and acknowledged standards. For after stating their willingness to comply with the request, they say, 'We are disposed to make every allowance which candor can suggest,' (p. 355,) 'for the difficulties of your situation, but at the same time we cannot help being afraid that in the proceedings of your Convention some alterations may have been adopted or intended, which those difficulties do not seem to justify. These alterations are not mentioned in your address, and as our knowledge of them is no more than what has reached us through private and less certain channels, we hope you will think it just, both to you and to ourselves, if we wait for an explanation. For while we are anxious to give every possible proof not only of our brotherly affection, but of our facility in forwarding your wishes, we cannot but be extremely cautious, lest we should be the instruments of establishing an ecclesiastical system which will be called a branch of the Church of England, but afterwards may possibly appear to have departed from it *essentially*, either in *doctrine* or in *discipline*.'

In the next conventional address of the American Church (ib. p. 125,) there was 'an assurance of there being no intention of departing from the *constituent principles* of the Church of England;' and in the preamble of the act of that Convention, (ib. p. 388,) there is a declaration of 'their steadfast resolution to maintain the same essential articles of faith and discipline with the Church of England.'

Now all this took place previous to the consecration of the first American bishops, and fixes the intention of all parties as to the proper character of the episcopal office, beyond the reach of cavil. Bishop Seabury was consecrated by the non-juring bishops of Scotland, A. D. 1784, and bishops White, Provoost, and Madison, under favor of an act of Parliament, were consecrated by the archbishops and bishops of England, A. D. 1787, the first nearly five years, and the other three, more than two years and a half before

the formation of our present Constitution and canons. What powers, then, I ask, did these bishops receive at the time of their consecration, but the spiritual powers understood to belong to the office of bishop, according to the sense of the primitive Church and the usage of the Church of England? In what quality were they received by their respective dioceses, but the quality of bishops, such as bishops had previously and always been defined? What attributes did their office possess by inherent right, but the very same which the congregations under their government had been accustomed to acknowledge in the bishop of London, who had been the diocesan of the colonies before the Revolution?

To demonstrate still farther, the doctrine of the Church on this point, let it be observed, that when the American Church did at last adopt the Constitution of 1789, there was not a sentence in it, and there is not now, defining in any way, the office or the powers of the episcopate, the presbyterate, or the diaconate. The three orders of the ministry are recognized in it as things well known and understood; but in vain would any man search in that instrument for the slightest description of what was intended by the words bishop, priest, and deacon. So, too, the first canon provides, that in this Church there shall always be these three orders in the ministry; but not one sentence is there in all the canons, which looks like a design to define or describe the proper official characteristics of these orders. Instead of which, on the contrary, the canons require the students of theology to be examined previous to ordination on the doctrines of Church government, (amongst other things) and refer to the course of study recommended by the house of bishops, as to the choice of authors; in which course of study, every book involving the point under consideration, is a standard of the Church of England, and Hooker's Ecclesiastical Polity is particularized for the Episcopacy.

I am really ashamed to be so precise on such an obvious matter, but the strange misconceptions existing in reference to it, seem to make some plain explanation necessary.

The result of the whole is simple. The bishop, presbyter, and deacon, in our Church, are just what they were intended to be by the apostles. The authority of the Church cannot change these offices from their first institution, without departing, *pro tanto*, from the authority of Scripture, and innovating upon the system of God. The channel through which these sacred offices descend to us, is that of the Church of England, and her sense upon the subject of their respective rights and duties, is the sense by which, next after Scripture, we are solemnly bound; saving and excepting those particulars only, in which our branch of the Church has thought fit to adopt a different rule.

APPENDIX E.

An Address to the President of the United States, published agreeably to the following order, viz.:

IN CONVENTION, August 7, 1789.

The Address to the President of the United States being read, and signed in Convention—

'*Resolved*, That the said Address, with the answer that may be received thereto, be printed in the Journals of the adjourned meeting of this Convention.

TO THE PRESIDENT OF THE UNITED STATES.

SIR:—We, the Bishops, Clergy, and Laity of the Protestant Episcopal Church in the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina, in General Convention assembled, beg leave, with the highest veneration, and the most animating national considerations, at the earliest moment in our power, to express our cordial joy on your election to the chief magistracy of the United States.

When we contemplate the short but eventful history of our nation; when we recollect the series of essential services performed by you in the course of the Revolution; the temperate yet efficient exertion of the mighty powers with which the nature of the contest made it necessary to invest you; and especially, when we remember the voluntary and magnanimous relinquishment of those high authorities at the moment of peace; we anticipate the happiness of our country under your future administration.

But it was not alone from a successful and virtuous use of those extraordinary powers, that you were called from your honorable retirement to the first dignities of our government. An affectionate admiration of your private character, the impartiality, the persevering fortitude, and the energy with which your public duties have been invariably performed, and the paternal solicitude for the happiness of the American people, together with the wis-

dom and consummate knowledge of our affairs, manifested in your last military communication, have directed to your name *the universal wish*, and have produced, for the first time in the history of mankind, *an example of unanimous consent* in the appointment of the governor of a free and enlightened nation.

To these considerations, inspiring us with the most pleasing expectations as private citizens, permit us to add, that, as the representatives of a numerous and extended Church, we most thankfully rejoice in the election of a civil ruler, deservedly beloved, and eminently distinguished among the friends of genuine religion—who has happily united a tender regard for other churches with an inviolable attachment to his own.

With unfeigned satisfaction we congratulate you on the establishment of the new Constitution of government of the United States, the mild yet efficient operations of which, we confidently trust, will remove every remaining apprehension of those with whose opinions it may not entirely coincide, and will confirm the hopes of its numerous friends. Nor do these expectations appear too sanguine, when the moderation, patriotism, and wisdom of the honorable members of the Federal Legislature are duly considered. From a body thus eminently qualified, harmoniously co-operating with the Executive authority in constitutional concert, we confidently hope for the restoration of order and of our ancient virtues, —the extension of genuine religion,—and the consequent advancement of our respectability abroad, and of our substantial happiness at home.

We devoutly implore the Supreme Ruler of the Universe to preserve you long in health and prosperity,—an animating example of all public and private virtues,—the friend and guardian of a free, enlightened, and grateful people,—and that you may finally receive the reward which will be given to those whose lives have been spent in promoting the happiness of mankind.

WILLIAM WHITE, D.D., Bishop of the Protestant Episcopal Church in the Commonwealth of Pennsylvania, and President of the Convention.

SAMUEL PROVOOST, D.D, Bishop of the Protestant Episcopal Church in the State of New York.

NEW YORK—BENJAMIN MOORE, D.D., Assistant Minister of Trinity Church, in the City of New York.

ABRAHAM BEACH, D.D., Assistant Minister of Trinity Church, in the City of New York.

NEW JERSEY—WILLIAM FRAZER, A.M., Rector of St. Michael's Church, Trenton, and St. Andrew's Church, Amwell.

UZAL OGDEN, Rector of Trinity Church, in Newark.

HENRY WADDEL, Rector of the churches of Shrewsbury and Middletown, New Jersey.

GEORGE H. SPIEREN, Rector of St. Peter's Church, Perth Amboy, New Jersey.

JOHN COX.

SAMUEL OGDEN.

ROBERT STRETTELL JONES.

PENNSYLVANIA—SAMUEL MAGAW, D.D., Rector of St. Paul's, and Vice-Provost of the University of Pennsylvania.

ROBERT BLACKWELL, D. D., Senior Assistant Minister of Christ Church and St. Peter's, Philadelphia.

JOSEPH PILMORE, Rector of the United Churches of Trinity, St. Thomas, and All Saints.

JOSEPH G. J. BEND, Assistant Minister of Christ Church and St. Peter's, Philadelphia.

FRANCIS HOPKINSON.

GERARDUS CLARKSON.

TENCH COXE.

SAMUEL POWEL.

DELAWARE—JOSEPH COUDEN, A. M., Rector of St. Anne's.

STEPHEN SYKES, A. M., Rector of the united Churches of St. Peter's and St. Matthew, in Sussex Co.

JAMES SYKES.

MARYLAND—WILLIAM SMITH, D. D., Provost of the College and Academy of Philadelphia, and Clerical Deputy for Maryland, as late Rector of Chester Parish, in Kent County.

THOMAS JOHN CLAGGET, Rector of St. Paul's, Prince George County.

COLIN FERGUSON, D. D., Rector of St. Paul's, Kent County.

JOHN BISSETT, A. M., Rector of Shrewsbury Parish, Kent County.

WILLIAM FRISBY.

RICHARD B. CARMICHAEL.

VIRGINIA—ROBERT ANDREWS.

SOUTH CAROLINA—ROBERT SMITH, D. D., Rector of St. Philip's Church, Charleston.

W. W. BURROWS.

WILLIAM BRISBANE.

THE PRESIDENT'S ANSWER

TO THE BISHOPS, CLERGY, AND LAITY OF THE PROTESTANT EPISCOPAL CHURCH, IN THE STATES OF NEW YORK, NEW JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, AND SOUTH CAROLINA, IN GENERAL CONVENTION ASSEMBLED.

GENTLEMEN:

I sincerely thank you for your affectionate congratulation on my election to the chief magistracy of the United States.

After having received from my fellow-citizens in general the most liberal treatment—after having found them disposed to contemplate, in the most flattering point of view, the performance of my military services, and the manner of my retirement at the close of the war—I feel that I have a right to console myself, in my present arduous undertaking, with a hope that they will still be inclined to put the most favourable construction on the motives which may influence me in my future public transactions.

The satisfaction arising from the indulgent opinion entertained by the American people, of my conduct, will, I trust, be some security for preventing me from doing any thing, which might justly incur the forfeiture of that opinion. And the consideration that human happiness and moral duty are inseparably connected, will always continue to prompt me to promote the progress of the former, by inculcating the practice of the latter.

On this occasion it would ill become me to conceal the joy I have felt in perceiving the fraternal affection which appears to increase every day among the friends of genuine religion. It affords edifying prospects, indeed, to see Christains of different denominations dwell together in more charity, and conduct themselves, in respect to each other, with a more Christian-like spirit than ever they have done in any former age, or in any other nation.

I receive, with the greatest satisfaction, your congratulations on the establishment of the New Constitution of Government; because I believe its mild, yet efficient, operations will tend to remove every remaining apprehension of those, with whose opinions it may not entirely coincide, as well as to confirm the hopes of its numerous friends; and because the moderate patriotism and wisdom of the present Federal Legislature seem to promise the restoration of order and our ancient virtues—the extension of genuine religion—and the consequent advancement of our respectability abroad, and of our substantial happiness at home.

I request, Most Reverend and respectable Gentlemen, that you will accept my cordial thanks for your devout supplications to the Supreme Ruler of the Universe in behalf of me. May you, and the people whom you represent, be the happy subjects of Divine Benediction both here and hereafter!

GEORGE WASHINGTON.

August 19, 1789.

APPENDIX F.

TO THE CLERICAL AND LAY DEPUTIES OF THE PROTESTANT EPISCOPAL CHURCH IN SUNDRY OF THE UNITED STATES OF AMERICA.

The Archbishop of Canterbury hath received an address, dated in Convention, Christ Church, Philadelphia, October 5, 1785, from the Clerical and Lay Deputies of the Protestant Episcopal Church in sundry of the United States of America, directed to the Archbishops and Bishops of England, and requesting them to confer the Episcopal character on such persons as shall be recommended by the Episcopal Church in the several States by them represented.

This brotherly and Christian address was communicated to the Archbishop of York, and to the Bishops, with as much dispatch as their separate and distant situations would permit, and hath been received and considered by them with that true and affectionate regard which they have always shown towards their Episcopal brethren in America.

We are now enabled to assure you, that nothing is nearer to our hearts than the wish to promote your spiritual welfare, to be instrumental in procuring for you the complete exercise of our holy religion, and the enjoyment of that Ecclesiastical Constitution which we believe to be truly apostolical, and for which you expressed so unreserved a veneration.

We are therefore happy to be informed, that this pious design is not likely to receive any discountenance from the civil powers under which you live; and we desire you to be persuaded, that we on our parts will use our best endeavors, which we have good reason to hope will be successful, to acquire a legal capacity of complying with the prayer of your address.

With these sentiments, we are disposed to make every allowance which candour can suggest for the difficulties of your situation, but at the same time we cannot help being afraid, that, in the proceed-

ings of your Convention, some alterations may have been adopted or intended, which those difficulties do not seem to justify.

Those alterations are not mentioned in your address: and, as our knowledge of them is no more than what has reached us through private and less certain channels, we hope you will think it just, both to you and to ourselves, if we wait for an explanation.

For while we are anxious to give every proof, not only of our brotherly affection, but of our facility in forwarding your wishes, we cannot but be extremely cautious, lest we should be the instruments of establishing an Ecclesiastical system which will be called a branch of the Church of England, but afterwards may possibly appear to have departed from it essentially, either in doctrine or in discipline.

In the meantime, we heartily commend you to God's holy protection, and are, your affectionate brethren,

J. ROCHESTER.
R. WORCESTER.
I. OXFORD.
I. EXETER.
THO. LINCOLN.
JOHN BANGOR.
I. LITCHFIELD AND COVENTRY.
S. GLOUCESTER.
E. St. DAVIDS.
CHR. BRISTOL.
T. CANTUAR.
W. EBOR.
R. LONDON.
W. CHICHESTER.
C. BATH AND WELLS.
S. St. ASAPH.
S. SARUM.
J. PETERBOROUGH.
JAMES ELY.

LONDON, February 24, 1786.

Resolved, That this Convention entertain a grateful sense of the Christian affection and condescension manifested in this letter. And whereas, it appears that the venerable Prelates have heard, through private channels, that the Church here represented have adopted, or intended, such alterations as would be an essential deviation from the Church of England, this Convention trust that they shall be able to give such information to those venerable Prelates, as will satisfy them that no such alterations have been adopted or intended.

Resolved, That a Committee be now appointed, to draft an answer to the letter of the Archbishops and Bishops of England.

TO THE MOST REVEREND AND RIGHT REVEREND FATHERS IN GOD, THE ARCHBISHOPS AND BISHOPS OF THE CHURCH OF ENGLAND.

Most Worthy and Venerable Prelates:

We, the Clerical and Lay Deputies of the Protestant Episcopal Church in the States of New York, New Jersey, Pennsylvania,

Delaware, Maryland, Virginia, and South Carolina, have received the friendly and affectionate letter which your Lordships did us the honor to write on the 24th day of February, and for which we request you to accept our sincere and grateful acknowledgments.

It gives us pleasure to be assured, that the success of our application will probably meet with no greater obstacles than what have arisen from doubts respecting the extent of the alterations we have made and proposed; and we are happy to learn, that as no political impediments oppose us here, those which at present exist in England may be removed.

While doubts remain of our continuing to hold the same essential articles of faith and discipline with the Church of England, we acknowledge the propriety of suspending a compliance with our request.

We are unanimous and explicit in assuring your Lordships, that we neither have departed, nor propose to depart, from the doctrines of your Church. We have retained the same discipline and forms of worship, as far as was consistent with our civil Constitutions; and we have made no alterations or omissions in the Book of Common Prayer but such as that consideration prescribed, and such as were calculated to remove objections, which it appeared to us more conducive to union and general content to obviate, than to dispute. It is well known, that many great and pious men of the Church of England have long wished for a revision of the Liturgy, which it was deemed imprudent to hazard, lest it might become a precedent for repeated and improper alterations. This is with us the proper season for such a revision. We are now settling and ordering the affairs of our Church, and if wisely done, we shall have reason to promise ourselves all the advantages that can result from stability and union.

We are anxious to complete our Episcopal system, by means of the Church of England. We esteem and prefer it, and with gratitude acknowledge the patronage and favors for which, while connected, we have constantly been indebted to that Church. These considerations, added to that of agreement in faith and worship, press us to repeat our former request, and to endeavor to remove your present hesitation, by sending you our proposed Ecclesiastical Constitution and Book of Common Prayer.

These documents, we trust, will afford a full answer to every question that can arise on the subject. We consider your Lordships' letter as very candid and kind. We repose full confidence in the assurance it gives; and that confidence, together with the liberality and catholicism of your venerable body, leads us to flatter ourselves, that you will not disclaim a branch of your Church merely for having been, in your Lordships' opinion, if that should be the case, pruned rather more closely than its separation made absolutely necessary.

We have only to add, that as our Church in sundry of these States has already proceeded to the election of persons to be sent for con-

secration, and others may soon proceed to the same, we pray to be favored with as speedy an answer to this our second address, as in your great goodness you were pleased to give to our former one.

We are, with great and sincere respect,
Most worthy and venerable Prelates,
Your obedient and
Very humble servants,

IN CONVENTION:
Christ Church, Philadelphia,
June 26, 1786.

VIRGINIA—DAVID GRIFFITH, President.
CYRUS GRIFFIN.

NEW YORK—SAMUEL PROVOOST, Rector of Trinity Church, New York.
JOSHUA BLOOMER, Rector of Jámaica, Long Island.
JOHN JAY.

NEW JERSEY—ABRAHAM BEACH, Rector of Christ Church, Néw Brunswick.
JAMES PARKER.
MATTHIAS HALSTED.

PENNSYLVANIA—WILLIAM WHITE, D.D., Rector of Christ Church and St. Peter's.
SAMUEL MAGAW, D. D., Vice Provost of the University of Pennsylvania and Rector of St. Paul's.
ROBERT BLACKWELL, Assistant Minister of Christ Church and St. Peter's.
SAMUEL POWELL.
FRANCIS HOPKINSON.

DELAWARE—SYDENHAM THORNE, Rector of Christ Church and St. Paul's.
CHARLES H. WHARTON, D.D., Rector of Emanuel Church, New Càstle.
ROBERT CLAY.
NICHOLAS RIDGELEY.

MARYLAND—WILLIAM SMITH, D.D., Principal of Washington College, and Rector of Chester Pârish.
WILLIAM SMITH, Rector of Stepney Parish.

SOUTH CAROLINA—ROBERT SMITH, Rector of St. Philip's Church, Charleston.
JOHN PARKER.

A GENERAL CONSTITUTION OF THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, OF JUNE 23, 1786.

Whereas, In the course of Divine Providence, the Protestant Episcopal Church in the United States of America is become independent of all foreign authority, civil and ecclesiastical:

And whereas, At a meeting of Clerical and Lay Deputies of the said Church in sundry of the said States, viz., in the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland, held in the city of New York, on the 6th and 7th days of October, in the year of our Lord 1784, it was recommended to this Church in the said States represented as aforesaid, and proposed to this Church in the States not represented, that they should send Deputies to a Convention to be held in the city of Philadelphia, on the Tuesday before the Feast of St. Michael, in the year of our Lord 1785, in order to unite in a Constitution of Ecclesiastical government, agreeably to certain fundamental principles, expressed in the said recommendation and proposal:

And whereas, In consequence of the said recommendation and proposal, Clerical and Lay Deputies have been duly appointed from the said Church in the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina:

The said Deputies being now assembled, and taking into consideration the importance of maintaining uniformity in doctrine, discipline, and worship in the said Church, do hereby determine and declare:

I. That there shall be a General Convention of the Protestant Episcopal Church in the United States of America, which shall be held in the city of Philadelphia, on the third Tuesday in June, in the year of our Lord, 1786, and forever after once in three years, on the fourth Tuesday in July, in such place as shall be determined by the Convention; and special meetings may be held at such other times, and in such place, as shall be hereafter provided for. And this Church, in a majority of the States aforesaid, shall be represented before they shall proceed to business, except that the representation of this Church from two States shall be sufficient to adjourn. And in all business of the Convention, freedom of debate shall be allowed.

II. There shall be a representation of both Clergy and Laity of the Church in each State, which shall consist of one or more Deputies, not exceeding four, of each Order, chosen by the Convention of each State; and in all questions the said Church in each State shall have but one vote, and a majority of suffrages shall be conclusive.

III. In the said Church, in every State represented in this Convention, there shall be a Convention consisting of the Clergy and Lay Deputies of the congregations.

IV. "The Book of Common Prayer and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the use of the Church of England," shall be continued to be used by this Church, as the same is altered by this Convention, in a certain instrument of writing passed by their authority, entitled, "Alterations of the Liturgy of the Protestant Fpiscopal Church in the United States of America, in order to render the same conformable to the American Revolution and the Constitutions of the respective States."

V. In every State where there shall be a Bishop duly consecrated and settled, who shall have acceded to the articles of this Ecclesiastical Constitution, he shall be considered as a member of the General Convention *ex officio;* and a Bishop shall always preside in the General Convention, if any of the Episcopal Order be present.

VI. The Bishop or Bishops in every State shall be chosen agreeably to such rules as shall be fixed by the Convention of that State; and every Bishop of this Church shall confine the exercise of his Episcopal office to his proper jurisdiction, unless requested to ordain or confirm, or perform any other act of the Episcopal office, by any Church destitute of a Bishop.

VII. A Protestant Episcopal Church, in any of the United States not now represented, may at any time hereafter be admitted, on acceding to the articles of this union.

VIII. Every Clergyman, whether Bishop, or Presbyter, or Deacon, shall be amenable to the authority of the Convention in the State to which he belongs, so far as relates to suspension or removal from office; and the Convention in each State shall institute rules for their conduct, and an equitable mode of trial. And at every trial of a Bishop, there shall be one or more of the Episcopal Order present, and none but a Bishop shall pronounce sentence of deposition or degradation from the ministry on any Clergyman, whether Bishop, or Presbyter, or Deacon.

IX. And whereas it is represented to this Convention to be the general desire of the Protestant Episcopal Church in these States, that there may be further alterations of the Liturgy than such as are made necessary by the American Revolution, — therefore, "The Book of Common Prayer and Administration of the Sacraments, and other Rites and Ceremonies, as revised and proposed to the use of the Protestant Episcopal Church, at a Convention of the said Church in the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina," may be used by the Church in such of the States as have adopted, or may adopt, the same in their particular Conventions, till further provision is made, in this case, by the first General Convention

which shall assemble with sufficient power to ratify a Book of Common Prayer for the Church in these States.

X. No person shall be ordained, until due examination had by the Bishop and two Presbyters, and exhibiting testimonials of his moral conduct for three years past, signed by the Minister and a majority of the Vestry of the Church where he has last resided; or permitted to officiate as a Minister in this Church until he has exhibited his Letters of Ordination and subscribed the following declaration: "I do believe the Holy Scriptures of the Old and New Testament to be the word of God, and to contain all things necessary to our salvation; and I do solemnly engage to conform to the doctrines and worship of the Protestant Episcopal Church in these United States."

XI. The Constitution of the Protestant Episcopal Church in the United States of America, when ratified by the Church in a majority of the States assembled in General Convention, with sufficient power for the purpose of such ratification, shall be unalterable by the Convention of any particular State, which hath been represented at the time of such ratification.

A GENERAL CONSTITUTION

OF THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, OF AUGUST 8, 1789.

ART. 1. There shall be a General Convention of the Protestant Episcopal Church in the United States of America on the first Tuesday of August, in the year of our Lord, 1792, and on the first Tuesday of August in every third year afterwards, in such place as shall be determined by the Convention; and special meetings may be called at other times, in the manner hereafter to be provided for; and this Church, in a majority of the States which shall have adopted this Constitution, shall be represented, before they shall proceed to business, except that the representation from two States shall be sufficient to adjourn; and in all business of the Convention freedom of debate shall be allowed.

ART. 2. The Church in each State shall be entitled to a representation of both the Clergy and the Laity, which representation shall consist of one or more Deputies, not exceeding four of each Order, chosen by the Convention of the State; and in all questions, when required by the Clerical or Lay representation from any State, each order shall have one vote; and the majority of suffrages by States shall be conclusive in each order; provided such majority comprehend a majority of the States represented in that Order. The concurrence of both Orders shall be necessary to constitute a

vote of the Convention. If the Convention of any State should neglect or decline to appoint Clerical Deputies, or if they should neglect or decline to appoint Lay Deputies, or if any of those of either Order appointed should neglect to attend, or be prevented by sickness or any other accident, such State shall nevertheless be considered as duly represented by such Deputy or Deputies as may attend, whether lay or clerical. And if, through the neglect of the Convention of any of the Churches which shall have adopted, or may hereafter adopt, this Constitution, no Deputies, either Lay or Clerical, should attend at any General Convention, the Church in such State shall nevertheless be bound by the acts of such Convention.

ART. 3. The Bishops of this Church, when there shall be three or more, shall, whenever General Conventions are held, form a House of Revision; and when any proposed act shall have passed in the General Convention, the same shall be transmitted to the House of Revision for their concurrence. And if the same shall be sent back to the Convention, with the negative or non-concurrence of the House of Revision, it shall be again considered in the General Convention, and if the Convention shall adhere to the said act by a majority of three-fifths of their body, it shall become a law to all intents and purposes, notwithstanding the non-concurrence of the House of Revision; and all acts of the Convention shall be authenticated by both Houses. And in all cases, the House of Bishops shall signify to the Convention their approbation or disapprobation, the latter with their reasons in writing, within two days after the proposed act shall have been reported to them for concurrence, and in failure thereof, it shall have the operation of a law. But until there shall be three or more Bishops as aforesaid, any Bishop attending a General Convention shall be a member ex officio, and shall vote with the Clerical Deputies of the State to which he belongs. And a Bishop shall then preside.

ART. 4. The Bishop or Bishops in every State shall be chosen agreeably to such rules as shall be fixed by the Convention of that State. And every Bishop of this Church shall confine the exercise of his Episcopal office to his proper Diocese or District, unless requested to ordain or confirm, or perform any other act of the Episcopal office, by any Church destitute of a Bishop.

ART. 5. A Protestant Episcopal Church in any of the United States not now represented may, at any time hereafter, be admitted, on acceding to this Constitution.

ART. 6. In every State the mode of trying clergymen shall be instituted by the Convention of the Church therein. At every trial of a Bishop there shall be one or more of the Episcopal Order present: and none but a Bishop shall pronounce the sentence of deposition or degradation from the Ministry on any clergyman, whether Bishop, or Presbyter, or Deacon.

ART. 7. No person shall be admitted to Holy Orders until he shall have been examined by the Bishop and by two Presbyters, and shall have exhibited such testimonials and other requisites as the Canons in that case provided may direct. Nor shall any person be ordained until he shall have subscribed the following declaration: "I do believe the Holy Scriptures of the Old and New Testament to be the word of God, and to contain all things necessary to salvation: and I do solemnly engage to conform to the doctrines and worship of the Protestant Episcopal Church in these United States." No person ordained by a foreign Bishop shall be permitted to officiate as a Minister of this Church until he shall have complied with the Canon or Canons in that case provided, and have also subscribed the aforesaid declaration.

ART. 8. A Book of Common Prayer, Administration of the Sacraments, and other Rites and Ceremonies of the Church, Articles of Religion, and a form and manner of making, ordaining, and consecrating Bishops, Priests, and Deacons, when established by this or a future General Convention, shall be used in the Protestant Episcopal Church in those States which shall have adopted this Constitution.

ART. 9. This Constitution shall be unalterable, unless in General Convention by the Church in a majority of the States which may have adopted the same; and all alterations shall be first proposed in one General Convention, and made known to the several State Conventions, before they shall be finally agreed to, or ratified, in the ensuing General Convention.

In General Convention, in Christ Church, Philadelphia, August the 8th, One thousand seven hundred and eighty-nine.

WILLIAM WHITE, D.D., Bishop of the Protestant Episcopal Church in the Commonwealth of Pennsylvania, and President of the Convention.

NEW YORK—ABRAHAM BEACH, D.D., Assistant Minister of Trinity Church, in the City of New York.

BENJAMIN MOORE, D.D., Assistant Minister of Trinity Church, in the City of New York.

MOSES ROGERS.

NEW JERSEY—WILLIAM FRAZER, Rector of St. Michael's Church, in Trenton, and St. Andrew's Church, in Amwell.

UZAL OGDEN, Rector of Trinity Church, Newark.

HENRY WADDELL, Rector of Shrewsbury and Middletown, New Jersey.

GEORGE H. SPIEREN, Rector of St. Peter's, Amboy.

JOHN COX.

SAMUEL OGDEN.

R. STRETTELL JONES.

PENNSYLVANIA—SAMUEL MAGAW, D.D., Rector of St. Paul's, Philadelphia.

ROBERT BLACKWELL, D.D., Senior Assistant Minister of Christ Church and St. Peter's, Philadelphia.

JOSEPH PILMORE, Rector of the United Churches of Trinity, St. Thomas, and All Saints.

JOSEPH G. J. BEND, Assistant Minister of Christ Church and St. Peter's, Philadelphia.

FRANCIS HOPKINSON.

GERARDUS CLARKSON.

TENCH COXE.

SAMUEL POWEL, Esq.

DELAWARE—JOSEPH COUDEN, A. M., Rector of St. Anne's.

STEPHEN SYKES, A. M., Rector of St. Peter's and St. Matthew's, in Sussex County.

JAMES SYKES.

MARYLAND—WILLIAM SMITH, D. D., a Clerical Delegate for Maryland, appointed in a Convention as Rector of Chester Parish, Kent County.

COLIN FERGUSON, D. D., Rector of St. Paul's, Kent County.

JOHN BISSETT, A. M., Rector of Shrewsbury Parish, Kent County.

RICHARD B. CARMICHAEL.

WILLIAM FRISBY.

VIRGINIA—ROBERT ANDREWS.

SOUTH CAROLINA—ROBERT SMITH, Rector of St. Philip's Church, Charleston, and Principal of Charleston College.

WILLIAM BRISBANE.

W. W. BURROWS.

THE CONSTITUTION

OF THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, OF OCTOBER 2, 1789.

ART. 1. There shall be a General Convention of the Protestant Episcopal Church in the United States of America, on the second Tuesday of September, in the year of our Lord 1792, and on the second Tuesday of September in every third year afterwards, in such place as shall be determined by the Convention; and special meetings may be called at other times, in the manner hereafter to be provided for; and this Church, in a majority of the States which shall have adopted this Constitution, shall be represented, before they shall proceed to business, except that the representation from two States shall be sufficient to adjourn; and in all business of the Convention, freedom of debate shall be allowed.

ART. 2. The Church in each State shall be entitled to a representation of both the Clergy and the Laity, which representation shall consist of one or more Deputies, not exceeding four of each Order, chosen by the Convention of the State: and in all questions, when required by the Clerical or Lay representation from any State, each Order shall have one vote; and the majority of suffrages by States shall be conclusive in each Order, provided such majority comprehend a majority of the States represented in that Order. The concurrence of both Orders shall be necessary to constitute a vote of the Convention. If the Convention of any State should neglect or decline to appoint Clerical Deputies, or if they should neglect or decline to appoint Lay Deputies, or if any of those of either Order appointed should neglect to attend, or be prevented by sickness or any other accident, such State shall nevertheless be considered as duly represented by such Deputy or Deputies as may attend, whether Lay or Clerical. And if, through the neglect of the Convention of any of the Churches which shall have adopted, or may hereafter adopt this Constitution, no Deputies, either Lay or Clerical, should attend at any General Convention, the Church in such State shall nevertheless be bound by the acts of such Convention.

ART. 3. The Bishops of this Church, when there shall be three or more, shall, whenever General Conventions are held, form a separate House, with a right to originate and propose acts for the concurrence of the House of Deputies, composed of Clergy and Laity; and when any proposed act shall have passed the House of Deputies, the same shall be transmitted to the House of Bishops,

who shall have a negative thereupon, unless adhered to by four-fifths of the other House. And all acts of the Convention shall be authenticated by both Houses. And in all cases, the House of Bishops shall signify to the Convention their approbation or disapprobation, the latter with their reasons in writing, within three days after the proposed act shall have been reported to them for concurrence, and in failure thereof, it shall have the operation of a law. But until there shall be three or more Bishops as aforesaid, any Bishop attending a General Convention shall be a member ex officio, and shall vote with the Clerical Deputies of the State to which he belongs; and a Bishop shall then preside.

ART. 4. The Bishop or Bishops in every State shall be chosen agreeably to such rules as shall be fixed by the Convention of that State. And every Bishop of this Church shall confine the exercise of his Episcopal office to his proper Diocese or District, unless requested to ordain or confirm, or perform any other act of the Episcopal office, by any Church destitute of a Bishop.

ART. 5. A Protestant Episcopal Church in any of the United States not now represented, may, at any time hereafter, be admitted, on acceding to this Constitution.

ART. 6. In every State, the mode of trying Clergymen shall be instituted by the Convention of the Church therein. At every trial of a Bishop there shall be one or more of the Episcopal Order present: and none but a Bishop shall pronounce sentence of deposition or degradation from the Ministry on any Clergyman, whether Bishop, or Presbyter, or Deacon.

ART. 7. No person shall be admitted to Holy Orders, until he shall have been examined by the Bishop and by two Presbyters, and shall have exhibited such testimonials and other requisites as the Canons in that case provided may direct. Nor shall any person be ordained until he shall have subscribed the following declaration: "I do believe the Holy Scriptures of the Old and New Testament to be the Word of God, and to contain all things necessary to salvation: and I do solemnly engage to conform to the doctrines and worship of the Protestant Episcopal Church in these United States." No person ordained by a foreign Bishop shall be permitted to officiate as a minister of this Church, until he shall have complied with the Canon or Canons in that case provided, and have also subscribed the aforesaid declaration.

ART. 8. A Book of Common Prayer, Administration of the Sacraments, and other Rites and Ceremonies of the Church, Articles of Religion, and a form and manner of making, ordaining, and consecrating Bishops, Priests, and Deacons, when established by this or a future General Convention, shall be used in the Protestant Episcopal Church in those States which shall have adopted this Constitution.

ART. 9. This Constitution shall be unalterable, unless in General Convention by the Church in a majority of the States which may have adopted the same; and all alterations shall be first proposed in one General Convention, and made known to the several State Conventions, before they shall be finally agreed to, or ratified, in the ensuing General Convention.

Done in General Convention of the Bishops, Clergy, and Laity of the Church, the second day of October, 1789, and ordered to be transcribed into the Book of Records, and subscribed, which was done as follows, viz.:—

IN THE HOUSE OF BISHOPS:

SAMUEL SEABURY, D.D., Bishop of Connecticut.

WILLIAM WHITE, D.D., Bishop of the Protestant Episcopal Church, Pennsylvania.

IN THE HOUSE OF CLERICAL AND LAY DEPUTIES:

WILLIAM SMITH, D D., President of the House of Clerical and Lay Deputies, and Clerical Deputy from Maryland.

NEW HAMPSHIRE AND MASSACHUSETTS—SAMUEL PARKER, D.D., Rector of Trinity Church, Boston.

CONNECTICUT—BELA HUBBARD, A.M., Rector of Trinity Church, New Haven.

ABRAHAM JARVIS, A.M., Rector of Christ Church, Middletown.

NEW YORK—BENJAMIN MOORE, D.D., } Assistant Ministers of
ABRAHAM BEACH, D.D., } Trinity Church in the City of New York.

RICHARD HARRISON, Lay Deputy from the State of New York.

NEW JERSEY—UZAL OGDEN, Rector of Trinity Church, Newark.

WILLIAM FRAZER, A.M., Rector of St. Michael's Church, Trenton, and St. Andrew's Church, Amwell.

SAMUEL OGDEN,
R. STRETTELL JONES, } Lay Deputies.

PENNSYLVANIA—SAMUEL MAGAW, D.D., Rector of St. Paul's, Philadelphia.

ROBERT BLACKWELL, D.D., Senior Assistant Minister of Christ Church and St. Peter's, Philadelphia.

JOSEPH G. J. BEND, Assistant Minister of Christ Church and St. Peter's, Philadelphia.

JOSEPH PILMORE, Rector of the United Churches of Trinity, St. Thomas, and All Saints.

GERARDUS CLARKSON,
TENCH COXE,
FRANCIS HOPKINSON,
SAMUEL POWEL,
} Lay Deputies from the State of Pennsylvania.

DELAWARE—JOSEPH COUDEN, A.M., Rector of St. Anne's.

ROBERT CLAY, Rector of Emanuel and St. James' Churches.

MARYLAND—JOHN BISSETT, A.M., Rector of Shrewsbury Parish, Kent County.

JOHN RUMSEY,
CHARLES GOLDSBOROUGH,
} Lay Deputies.

VIRGINIA—JOHN BRACKEN, Rector of Bruton Parish, Williamsburg.

ROBERT ANDREWS, Lay Deputy.

SOUTH CAROLINA—ROBERT SMITH, D.D., Rector of St. Philip's Church, Charleston.

WILLIAM SMITH,
WILLIAM BRISBANE,
} Lay Deputies from the State of South Carolina.

THE CONSTITUTION,

AS ADOPTED BY THE GENERAL CONVENTION, AND PUBLISHED IN ITS JOURNAL OF 1880.

CONSTITUTION,

ADOPTED IN GENERAL CONVENTION,

IN PHILADELPHIA, OCTOBER, 1789, WITH AMENDMENTS, AS PUBLISHED IN THE JOURNAL OF 1880.

ARTICLE 1.

General Convention.

There shall be a General Convention of the Protestant Episcopal Church in the United States of America, on the first Wednesday in October, in every third year, from the year of our Lord one thousand eight hundred and forty-one; and in such place as shall be determined by the Convention; and in case there shall be an epidemic disease, or any other good cause to render it necessary to alter the place fixed on for any such meeting of the Convention, the Presiding Bishop shall have it in his power to appoint another convenient place (as near as may be to the place so fixed on) for the holding of such Convention: and special meetings may be called at other times, in the manner hereafter to be provided for; and this Church, in a majority of the Dioceses which shall have adopted this Constitution, shall be represented, before they shall proceed to business; except that the representation from two Dioceses shall be sufficient to adjourn; and in all business of the Convention freedom of debate shall be allowed.

Change of Place.

Special Meetings.

Quorum.

Freedom of Debate.

ARTICLE 2.

House of Clerical and Lay Deputies.

The Church in each Diocese shall be entitled to a representation of both the Clergy and the Laity. Such representation shall consist of not more than four Clergymen and four Laymen, communicants in this Church, residents in the Diocese, and chosen in the manner prescribed by the Convention thereof; and in all questions when required by the Clerical or Lay representation from any Diocese, each Order shall have one vote; and the majority of suffrages by Dioceses shall be conclusive in each Order, provided such majority comprehend a majority of the Dioceses represented

Vote by Dioceses and Orders.

in that Order. The concurrence of both Orders shall be necessary to constitute a vote of the Convention. If the Convention of any Diocese should neglect or decline to appoint Clerical Deputies, or if they should neglect or decline to appoint Lay Deputies, or if any of those of either Order appointed should neglect to attend, or be prevented by sickness or any other accident, such Diocese shall nevertheless be considered as duly represented by such Deputy or Deputies as may attend, whether Lay or Clerical. And if, through the neglect of the Convention of any of the Churches which shall have adopted or may hereafter adopt this Constitution, no Deputies, either Lay or Clerical, should attend at any General Convention, the Church in such Diocese shall nevertheless be bound by the acts of such Convention.

Dioceses unrepresented are bound.

ARTICLE 3.

House of Bishops.

The Bishops of this Church, when there shall be three or more, shall, whenever General Conventions are held, form a separate House, with a right to originate and propose acts for the concurrence of the House of Deputies composed of Clergy and Laity; and when any proposed act shall have passed the House of Deputies, the same shall be transmitted to the House of Bishops, who shall have a negative thereupon; and all acts of the Convention shall be authenticated by both Houses. And in all cases the House of Bishops shall signify to the Convention their approbation or disapprobation (the latter with their reasons in writing) within three days after the proposed act shall have been reported to them for concurrence; and in failure thereof, it shall have the operation of a law. But until there shall be three or more Bishops, as aforesaid, any Bishop attending a General Convention shall be a member *ex officio*, and shall vote with the Clerical Deputies of the Diocese to which he belongs; and a Bishop shall then preside.

Negative upon the Lower House.

ARTICLE 4.

Jurisdiction of Bishops.

The Bishop or Bishops in every Diocese shall be chosen agreeably to such rules as shall be fixed by the Convention of that Diocese; and every Bishop of this Church shall confine the exercise of his Episcopal Office to his proper Diocese, unless requested to ordain, or confirm, or perform any other act of the Episcopal Office in another Diocese by the Ecclesiastical Authority thereof.

ARTICLE 5.

Admission of New Dioceses.

A Protestant Episcopal Church in any of the United States, or any Territory thereof, not now represented, may, at any time hereafter, be admitted on acceding to this Constitution; and a new Diocese, to be formed from one or more existing Dioceses, may be admitted under the following restrictions, viz.:—

Consent required.

No new Diocese shall be formed or erected within the limits of any other Diocese, nor shall any Diocese be formed by the junction of two or more Dioceses, or parts of Dioceses, unless with the consent of the Bishop and Convention of each of the Dioceses concerned, as well as of the General Convention, and such consent shall not be given by the General Convention until it has satisfactory assurance of a suitable provision for the support of the Episcopate in the contemplated new Diocese.

Limit of Presbyters and Parishes.

No such new Diocese shall be formed which shall contain less than six Parishes, or less than six Presbyters who have been for at least one year canonically resident within the bounds of such new Diocese, regularly settled in a Parish or Congregation, and qualified to vote for a Bishop. Nor shall such new Diocese be formed if thereby any existing Diocese shall be so reduced as to contain less than twelve Parishes, or less than twelve Presbyters who have been residing therein and settled and qualified as above mentioned: *provided*, that no city shall form more than one Diocese.

Rights of the Diocesan and the Assistant Bishops.

In case one Diocese shall be divided into two or more Dioceses, the Diocesan of the Diocese divided may elect the one to which he will be attached, and shall thereupon become the Diocesan thereof; and the Assistant Bishop, if there be one, may elect the one to which he will be attached; and if it be not the one elected by the Bishop, he shall be the Diocesan thereof.

Constitution and Canons of New Dioceses.

Whenever the division of a Diocese into two or more Dioceses shall be ratified by the General Convention, each of the Dioceses shall be subject to the Constitution and Canons of the Diocese so divided, except as local circumstances may prevent, until the same may be altered in either Diocese by the Convention thereof. And whenever a Diocese shall be formed out of two or more existing Dioceses, the new Diocese shall be subject to the Constitution and Canons of that one of the said existing Dioceses to which the greater number of Clergymen shall have belonged prior to the erection of such new Diocese, until the same may be altered by the Convention of the new Diocese.

ARTICLE 6.

Ecclesiastical Courts, Trials and Sentences.

The mode of trying Bishops shall be provided by the General Convention. The Court appointed for that purpose shall be composed of Bishops only. In every Diocese the mode of trying Presbyters and Deacons may be instituted by the Convention of the Diocese. None but a Bishop shall pronounce sentence of admonition, suspension, or degradation from the Ministry, on any Clergyman, whether Bishop, Presbyter, or Deacon.

ARTICLE 7.

Requisites for Ordination.

No person shall be admitted to Holy Orders until he shall have been examined by the Bishop, and by two Presbyters, and shall have exhibited such testimonials and other requisites as the Canons, in that case provided, may direct. Nor shall any person be ordained until he shall have subscribed the following declaration:—

Declaration.

I do believe the Holy Scriptures of the Old and New Testament to be the Word of God, and to contain all things necessary to salvation; and I do solemnly engage to conform to the Doctrines and Worship of the Protestant Episcopal Church in the United States.

Admission of Foreign Clergy.

No person ordained by a foreign Bishop shall be permitted to officiate as a Minister of this Church, until he shall have complied with the Canon or Canons in that case provided, and have also subscribed the aforesaid Declaration.

ARTICLE 8.

The Book of Common Prayer.

A Book of Common Prayer, Administration of the Sacraments, and other Rites and Ceremonies of the Church, Articles of Religion, and a Form and Manner of making, ordaining, and consecrating Bishops, Priests, and Deacons, when established by this or a future General Convention, shall be used in the Protestant Episcopal Church in those Dioceses which shall have adopted this Constitution.

Alterations or Additions, how to be made.

No alteration or addition shall be made in the Book of Common Prayer, or other Offices of the Church, or the Articles of Religion, unless the same shall be proposed in one General Convention, and by a resolve thereof made known to the Convention of every Diocese, and adopted at the subsequent General Convention: *Provided, however*, That the General Convention shall have power, from time to time, to amend the Lectionary; but no act for this purpose shall be valid which is not voted for by

The Lectionary, how it may be Amended.

a majority of the whole number of Bishops entitled to seats in the House of Bishops, and by a majority of all the Dioceses entitled to representation in the House of Deputies.

ARTICLE 9.

Alterations of this Constitution.

This Constitution shall be unalterable, unless in General Convention, by the Church, in a majority of the Dioceses which may have adopted the same; and all alterations shall be first proposed in one General Convention, and made known to the several Diocesan Conventions, before they shall be finally agreed to, or ratified, in the ensuing General Convention.

ARTICLE 10.

Consecration of Bishops for Foreign Countries.

Bishops for foreign countries, on due application therefrom, may be consecrated, with the approbation of the Bishops of this Church, or a majority of them, signified to the Presiding Bishop; he thereupon taking order for the same, and they being satisfied that the person designated for the office has been duly chosen, and properly qualified: the Order of Consecration to be conformed, as nearly as may be, in the judgment of the Bishops, to the one used in this Church. Such Bishops, so consecrated, shall not be eligible to the Office of Diocesan, or Assistant Bishop, in any Diocese in the United States, nor be entitled to a seat in the House of Bishops, nor exercise any Episcopal authority in said States.

Done in the General Convention of the Bishops, Clergy, and Laity of the Church, the 2d day of October, 1789.

History of Alterations.

NOTE.—When the Constitution was originally adopted, in August, 1789, the first Article provided that the triennial Convention should be held on the first Tuesday in August. At the adjourned meeting of the Convention, held in October of the same year, it was provided that the second Tuesday in September in every third year, should be the time of meeting. The time was again changed to the third Tuesday in May, by the General Convention of 1804.

1789.

1804.

The first Article was put into its present form at the General Convention of 1841.

1841.

The second Article was put into its present form at the General Convention of 1856.

1856.

The third Article was so altered by the General Convention of 1808, as to give the House of Bishops a full veto upon the proceedings of the other House.

1808.

1874. The fourth Article was put into its present form at the General Convention of 1874.

1871. The fifth Article was put into its present form at the General Convention of 1871.

1841. The sixth Article was put into its present form at the General Convention of 1841.

1811. The second sentence of the eighth Article was adopted at the General Convention of 1811.

1829. The words "or the Articles of Religion" were added to the eighth Article by the General Convention of 1829.

1877. The third sentence of the eighth Article was adopted at the General Convention of 1877.

1844. The tenth Article was finally agreed to, and ratified, in the General Convention of 1844.

1838. The Convention of 1838 adopted the following alterations, to-wit:—

Striking out the word "States" wherever it occurred in the first and second Articles, except where it followed the word "United" in the first part of the first Article, and inserting in lieu of the word "States" the word "Dioceses." Striking out the word "States" wherever it occurred in the second, third, and fourth Articles, and inserting in lieu thereof the word "Dioceses."

Striking out the words "or district" in the fourth Article.

Striking out the word "State" in the sixth Article, and inserting the word "Diocese."

Striking out the word "States" in the eighth Article, and inserting the word "Dioceses"; and in the eighth Article, striking out the words "or State" after the words "every Diocese."

Striking out the word "States" in the ninth Article, and inserting the word "Dioceses." Striking out the word "State" in the ninth Article, and inserting the word "Diocesan."